

# RESUBMITTAL

## NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

OAL FILE NUMBERS: 289-0121-01  
NOTICE FILE NUMBER: 90-0802-03R  
REGULATORY ACTION NUMBER: 90-0802-03R  
EMERGENCY NUMBER: 90-0305-02 S  
PREVIOUS REGULATORY ACTION NUMBER: 90-0305-02 S

For use by Office of Administrative Law (OAL) only

1990 AUG -2 PM 3:17  
OFFICE OF  
ADMINISTRATIVE LAW

ENDORSED  
APPROVED FOR FILING

SEP 04 1990

Office of Administrative Law

NOTICE

REGULATIONS

AGENCY

AGENCY FILE NUMBER (if any)

Department of Social Services

RDB # 1188-52

### A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

|   |  |                          |                        |                               |  |
|---|--|--------------------------|------------------------|-------------------------------|--|
| 1. SUBJECT OF NOTICE  |  | TITLE(S)                 | FIRST SECTION AFFECTED | 2. REQUESTED PUBLICATION DATE |  |
| 3. NOTICE TYPE<br><input type="checkbox"/> Notice re Proposed Regulatory Action<br><input type="checkbox"/> Other   |  | 4. AGENCY CONTACT PERSON |                        | TELEPHONE NUMBER              |  |
| OAL USE ONLY<br><input type="checkbox"/> Approved as Submitted<br><input type="checkbox"/> Approved as Modified<br><input type="checkbox"/> Disapproved/Withdrawn |  | NOTICE REGISTER NUMBER   |                        | PUBLICATION DATE              |  |

### B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

#### 1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

|                   |                                    |
|-------------------|------------------------------------|
| SECTIONS AFFECTED | ADOPT                              |
|                   | AMEND                              |
|                   | REPEAL                             |
| MPP TITLE(S)      | Sections 30-753, 30-766 and 30-767 |

#### 2. TYPE OF FILING

☐ Regular Rulemaking (Gov. Code, § 11346) ☒ Resubmittal ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100) ☐ Emergency (Gov. Code, § 11346.1(b))

☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

☐ Print Only ☐ Other (specify)

3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45) Final Statement of Reasons, July 12, 1990 through July 27, 1990; Modified text Sections 10-200.221, 30-753, 30-766, and 30-767

#### 4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

☒ Effective 30th day after filing with Secretary of State ☐ Effective on filing with Secretary of State ☐ Effective other (Specify)

#### 5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☐ Department of Finance (Form STD. 399) ☐ Fair Political Practices Commission ☐ State Fire Marshal

☐ Other (Specify)

#### 6. CONTACT PERSON

Rosalie Clark, Chief, Regulations Development Bureau

TELEPHONE NUMBER

(916) 445-0313

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

L. S. McMahon

DATE

8-7-90

TYPED NAME AND TITLE OF SIGNATORY

Linda S. McMahon, Director



## NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 7-90) ( REVERSE)

INSTRUCTIONS FOR PUBLICATION OF NOTICE  
AND SUBMISSION OF REGULATIONS

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

**ALL FILINGS**

Enter the agency name and agency file number, if any.

**NOTICES**

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

**REGULATIONS**

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

**RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS**

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

**EMERGENCY REGULATIONS**

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

**NOTICE FOLLOWING EMERGENCY ACTION**

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

**CERTIFICATE OF COMPLIANCE**

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

**EMERGENCY REGULATIONS - READOPTION**

When submitting previously approved emergency regulations for re adoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

DELEGATED AUTHORITY ORDER

I hereby authorize and designate the following individuals as the agency contact persons who have authority, during the Office of Administrative Law review period, to make decisions and answer questions regarding regulations adopted by the Department of Social Services.

Rosalie P. Clark, Chief  
Regulations Development Bureau

James Rhoads, Assistant Chief  
Regulations Development Bureau

This designation shall be effective on 8-26-88, 1988 and shall remain in effect until superseded or cancelled.



Linda S. McMahon  
Director

8-26-88  
Date

Amend Section 30-753 to read:

30-753 SPECIAL DEFINITIONS

30-753

- (a) (1) Administrative costs are those costs necessary for the proper and efficient administration of the county IHSS program as defined below. Activities considered administrative in nature include, but are not limited to:
- (A) Determine eligibility;
  - (B) Conduct needs assessments;
  - (C) Give information and referrals;
  - (D) Establish case files;
  - (E) Process Notices of Action;
  - (F) Arrange for services;
  - (G) Compute shares of cost;
  - (H) Monitor and evaluate contractor performance;
  - (I) Respond to inquiries;
  - (J) Audit recipient and individual provider timesheets;
  - (K) Enter case and payroll information into the CMIPS;
  - (L) Screen potential providers and maintain a registry or list.
- (2) Allocation means federal, state, and county monies which are identified for a county by the Department for the purchase of services in the IHSS program.
- (b) (1) Base Allocation means all federal, state and county monies identified for counties by the Department for the purchase of services in the IHSS program, exclusive of any provider COLA allocation, but including recipient COLA.
- ~~(c)~~ (2) Base Rate means the mount of payment per unit of work before any premium is applied for overtime or related extraordinary payments.



(c)    (Ø1)    County Plan means the annual plan submitted to the State Department of Social Services specifying the method of IHSS delivery to meet program objectives, conditions, and fiscal limitations.

(d)    (2)       CRT or Cathode Ray Tube means a device commonly referred to as a terminal which is used to enter data into the IHSS payrolling system.

(f)    (3)       CRT County means a county in which one or more CRT's have been located allowing the county to enter its date directly into the payrolling system.

(d)    (Ø1)    Deeming means procedures by which the income and resources of certain relatives, living in the same household as the recipient, are determined to be available to the recipient for the purposes of establishing eligibility and share of cost.

(Ø2)    Direct advance payments means a payment to be used for the purchase of authorized IHSS which is sent directly to the recipient in advance of the service actually being provided.

(e)    (Ø1)    Employee means the provider of IHSS under the individual delivery method as defined in Section 30-767.13.

(Ø2)    Employer means the recipient of IHSS when such services are purchased under the individual delivery method as defined in Section 30-767.13.

(Ø3)    Equity Value means a resource;s current market value after subtracting the value of any liens or encumbrances against the resources which are held by someone other than the recipient of his/her spouse.

(f)    *Essential services means:*

(1)    *Nonmedical personal services;*

(2)    *Paramedical services;*

(3)    *Protective supervision;*

(4)    *Snow removal/ when appropriate;*

(5)    *Meal preparation;*

(6)    *Meal cleanup when assistance with both meal preparation and the consumption of food is required;*

(f)    (Reserved)

- (g)    (~~h~~)    Gatekeeper Client means a person eligible for, but not placed in a skilled or intermediate care facility as a result of preadmission screening.
- (h)    (~~h~~1)    Hours Worked means the time during which the provider is subject to the control of the recipient, and includes all the time the provider is required or permitted to work, exclusive of time spent by the provider traveling to and from work.
- (~~h~~2)    Housemate means a person who shares a living unit with a recipient. An able and available spouse of a live-in provider is not considered a housemate.
- (i)    (Reserved)
- (j)    (Reserved)
- (k)    (Reserved)
- (l)    (~~h~~1)    Landlord/Tenant Living Arrangement means a shared living arrangement considered to exist when one housemate, the landlord, allows another, the tenant, to share housing facilities in return for a monetary or in-kind payment for the purpose of augmenting the landlord's income. A landlord/tenant arrangement is not considered to exist between a recipient and his/her live-in provider. Where housemates share living quarters for the purpose of sharing mortgage, rental, and other expenses, a landlord/tenant relationship does not exist, though one housemate may customarily collect the payment(s) of the other housemate(s) in order to pay mortgage/rental payments in a lump sum.
- (~~h~~2)    Licensed Health Care Professional means a person who is a physician, chiropractor, podiatrist or dentist as defined and authorized to practice in this state in accordance with the California Business and Professions Code.
- (~~h~~3)    Live-In Provider means a provider who is not related to the recipient and who lives in the recipient's home expressly for the purpose of providing IHSS-funded services.
- (~~h~~4)    A list means any informal or formal listing or registry of written name(s) of prospective In-Home Supportive Services providers maintained by the county agency, county social services staff, a contractor as defined under welfare and Institutions Code Section 12302.1, or any public or private agency for purposes of referring the prospective providers for employment.

(m) (g) Minor means any person under the age of eighteen.

(n) (f) Net Nonexempt Income means income remaining after allowing all applicable income disregards in exemptions.

(u) *Nonessential services means:*

(1) *All domestic services/*

(2) *Heavy cleaning/*

(3) *Related services except meal preparation and except meal cleanup where assistance with both meal preparation and consumption of food is required/*

(4) *Transportation services/*

(5) *Teaching and demonstration services/*

(6) *Yard hazard abatement/ with the exception of snow removal/*

(o) (v1) Out-of-Home care facility means a housing unit other than the recipient's own home, as defined in (w) (2) below. Medical out-of-home care facilities include acute care hospitals, skilled nursing facilities, and intermediate care facilities. Nonmedical out-of-home care facilities include community care facilities and homes of relatives which are exempt from licensure, as specified in Section 46-325.5, where recipients are certified to receive board and care payment level from SSP.

(w2) Own Home means the place in which an individual chooses to reside. An individual's "own home" does not include an acute care hospital, skilled nursing facility, intermediate care facility, community care facility, or a board and care facility. A person receiving an SSI/SSP payment for a nonmedical out-of-home living arrangement is not considered to be living in his/her own home.

(p) (x1) Paper County means a county which sends its data in paper document form for entry into the payrolling system to the IHSS payrolling contractor.

(y2) Payment Period means the time period for which wages are paid. There are two payment periods per month corresponding to the first of the month through the fifteenth of the month and the sixteenth of the month through the end of the month.



(~~z~~3) Payrolling System means a service contracted for by the state with a vendor to calculate paychecks to individual providers of IHSS; to withhold the appropriate employee taxes from the provider's wages; to calculate the employer's taxes; and to prepare and file the appropriate tax return.

(~~z~~4) Personal Attendant means a provider who is employed by the recipient and, as defined by 29 CFR 552.6, who spends at least eighty percent of this/her time in the recipient's employ performing the following services:

(1A) Preparation of meals, as provided in Section 30-757.131.

(2B) Meal Clean-up, as provided in Section 30-757.132.

(3C) Planning of menus, as provided in Section 30-757.133.

(4D) Consumption of food, as provided in Section 30-757.14(c).

(5E) Routine bed baths, as provided in Section 30-757.14(d).

(6F) Bathing, oral hygiene and grooming, as provided in Section 30-757.14(e).

(7G) Dressing, as provided in Section 30-757.14(f).

(8H) Protective supervision, as provided in Section 30-757.17.

(~~z~~5) Preadmission Screening means personal assessments of an applicant for placement in a skilled or intermediate care facility, prior to admission to determine the individual's ability to remain in the community with the support of community-based services.

(~~z~~6) Provider Cost-of-Living Adjustment (COLA) means all federal, state and county monies identified for counties by SDSS for the payment of wage and/or benefit increases for service providers in the IHSS program.

(q) (Reserved)

(r) (~~z~~) Recipient means a person receiving IHSS, including applicants for IHSS when clearly implied by the context of the regulations.

- (s) (~~66~~1) Severely Impaired Individual means a recipient with a total assessed need, as specified in Section 30-763.26, for 20 hours or more per week of service in one or more of the following areas:
- (1A) Any nonmedical personal service listed in Section 30-757.14
  - (2B) Preparation of meals and meal cleanup when assistance with consumption of food is required.
  - (3C) Paramedical services.
- (~~77~~2) Shared Living Arrangement means a situation in which one or more recipients reside in the same living unit with one or more persons. A shared living arrangement does not exist if a recipient is residing only with his/her able and available spouse.
- (~~88~~3) Share of cost means an individual's net non-exempt income in excess of the applicable SSI/SSP benefit level which must be paid toward the cost of IHSS authorized by the county.
- (~~99~~4) Spouse means a member of a married couple or a person considered to be a member of a married couple for SSI/SSP purposes.
- (~~77~~5) SSI/SSP means the Supplemental Security Income and State Supplementary Program administered by the Social Security Administration of the United States Department of Health and Human Services in California.
- (6) State Allocation Plan means that process whereby individual county IHSS program allocations are developed in a manner consistent with a) Welfare and Institutions Code Sections 10102 and 12300 et seq., and b) funding levels appropriated and any control provision contained in the Annual Budget Act.
- (7) State-mandated program cost means those county costs incurred for the provision of IHSS to recipients, as specified in Section 30-757.1 et seq., in compliance with a state approved county plan. Costs caused by factors beyond county control such as caseload growth and increased hours of service based on individually assessed need, shall also be considered state-mandated.
- (~~77~~8) Substantial Gainful Activity means work activity that is considered to be substantial gainful activity under the applicable regulations of the Social Security Administration, 20 CFR 416.932 through 416.934.

Substantial work activity involves the performance of significant physical or mental duties, or a combination of both, productive in nature. Gainful work activity is activity for remuneration of profit, or intended for profit, whether or not profit is realized, to the individual performing it or to the persons, if any, for whom it is performed, or of a nature generally performed for remuneration or profit.

(KK9) Substitute Payee means an individual who acts as an agent for the recipient.

(t) (XX) Turnaround Timesheet means a three-part document issued by the state consisting of the paycheck, the statement of earnings, and the timesheet to be submitted for the next pay period.

(u) (Reserved)

(v) (Reserved)

(w) (Reserved)

(x) (Reserved)

(y) (Reserved)

(z) (Reserved)

Authority Cited: Section 10553, Welfare and Institutions Code.

Reference: Section 10554, 12301, 12306, 12308, and 13002, Welfare and Institutions Code.



Amend Section 30-766 to read:

30-766 PROGRAM CONTROLS

30-766

- .1 Each county welfare department shall develop and submit a county plan to SDSS no later than 30 days following receipt of its allocation, which specifies the means by which IHSS will be provided in order to meet the objectives and conditions of the program within its allocation.
- .11 The plan shall be submitted on a to SDSS form and shall include at least be based upon relevant information, as specified in Welfare and Institutions Code Section 12301, including, but not limited to the information specified below:
  - .111 Projected caseload, hours paid, and costs per month/quarter by mode and demographic information required by Welfare and Institutions Code Section 12391.

HANDBOOK BEGINS HERE

- (a) Information on caseloads/ including the number of persons who receive 20 or more hours of personal services/ between 18 and 20 hours of personal services/ the number of persons receiving protective supervision/ other special characteristics of the population and the number of cases per age of recipient/
- (b) Expected impact on the In-home Supportive Services program from any new or expanded programs or changed health characteristics of the population/ including/ but not limited to the impact of all of the following:
  - (1) The new linkages program authorized by Chapter 1637 of the Statutes of 1984/
  - (2) Multipurpose senior service centers/
  - (3) Adult day health care centers/
  - (4) Diagnostically related groups and early hospital discharges/

~~13) Preadmission screening/~~

~~16) Reported adult abuse/~~

(~~112~~) Section 12301 of the Welfare and Institutions Code states:

The county shall also report which methods of outreach are being utilized by the county regarding the availability of services under this article.

HANDBOOK ENDS HERE

~~.12~~ County plans and amendments shall be effective upon submission.

~~.13~~ SDSS shall review each county plan for compliance with Welfare and Institutions Code Section 12300, et seq., departmental regulations, and when appropriate, issue departmental approval.

~~.131~~ SDSS, when appropriate, shall adjust funding levels contained in the plan, as a condition of approval.

~~.132~~ A county plan which includes IHSS administrative costs shall not be issued departmental approval.

~~.133~~ If, after review, SDSS determines that a county plan is not in compliance, the Department shall require the county to amend its plan.

~~.134~~ SDSS shall develop a county plan for counties which have not submitted plans within the required time frame, based on SDSS's estimate for those counties. Such plans shall be effective upon written notification to the county.

~~.134~~ In the event that funds are available for reallocation, special consideration shall be given to those counties which submit their county plans by the due date.

~~.1341~~ SDSS shall be permitted to reallocate funds from counties which are late based on SDSS's estimate for those counties.

.145 Each county shall monitor its expenditures monthly. Upon discovery by either SDSS or the county that anticipated expenditures will exceed the amount of the county's base allocation, the county shall immediately submit to SDSS for approval an amended plan including the information specified in 115 below.

115 If a county's IHSS program base allocation is insufficient to meet projected service needs, the county shall specify within its plan:

1151 Whether it intends to provide additional county funding, or

1152 Whether it chooses to utilize administrative actions to reduce the rate of expenditures;

(a) Administrative actions include, but are not limited to the following:

117 Change in mode of service delivery;

127 Reduction in hourly rate of payment provided that such reduction does not cause the hourly rate to decrease below an amount equal to the current minimum wage plus the cumulative mandatory provider costs, beginning with FY 1983/84.

.16 Counties shall not reduce authorized services or hours of service to recipients in order to remain within their allocation.

.17 All state-mandated program costs, after the required county contribution, shall be eligible for reimbursement from state social service funds. If appropriated funds are insufficient to reimburse counties for all state-mandated costs, the state shall fully reimburse the counties for all state-mandated program costs, less the required county contribution.

.18 The portion of county expenditures which, after the county contribution, exceeds the allocation, shall not be eligible for reimbursement from state social service funds if such deficit is caused by:

.181 Noncompliance with the requirements of the state-approved county plan or State allocation plan; or



.182 Non-state-mandated costs; or

.183 IHSS administrative costs.

HANDBOOK STARTS HERE

(a) Some examples of situations where reimbursement would not be made are:

(1) A county chooses to give a wage/benefit increase to IHSS providers which is higher than that provided in the Budget Act; or

(2) A county chooses to expand its use of a more expensive service delivery mode beyond the level of caseload and hours growth for each mode that is built into the Budget Act; or

(3) A county chooses to enter into a third party contract at an hourly rate higher than the maximum established for that county; or

(4) A county chooses to shift to a more expensive mode without providing for concomitant offsetting savings in other areas, and causing a cost overrun.

HANDBOOK ENDS HERE

Authority Cited: Section 10553, Welfare and Institutions Code.

Reference: Section 10102, 12301, 12302, 12306, 12308, 13002, Welfare and Institutions Code, and Chapter 93, Statutes of 1989 (Budget Act of 1989).

Amend Section 30-767 to read:

30-767 SERVICE DELIVERY METHODS

30-767

- .1 The county shall arrange for the provision of IHSS through one or more of the methods specified below in accordance with an approved county plan:

HANDBOOK BEGINS HERE

Counties may choose modes of delivery that best meet the needs of their recipient population in their county demographic situation (WIC 12302). However, state reimbursement can be available only within the constraints imposed by the annual budget act (WIC 12300) and state allocation plan (WIC 10102), all of which must be reflected in state-approved individual county plans. Counties which exceed the constraints run the risk of not receiving full reimbursement if the cost overrun was due to non-state mandated costs, i.e., costs within county control, or more expensive modes used beyond amounts approved in an individual county plan.

HANDBOOK ENDS HERE

Authority Cited: Section 10553, Welfare and Institutions Code.

Reference: Section 12302, Welfare and Institutions Code.

OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION

OF

APPROVAL

**FILED**  
In the Office of the Secretary of State  
of the State of California

SEP 04 1990  
At 4:20 o'clock P.M.  
MARCH FONG EU, Secretary of State  
By Shirley L. Williams  
Private Secretary of the Secretary of State

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the City of Sacramento, State of California.

Submitting Agency: Social Services  
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OAL File No: 90-0802-03  
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LINDA BREWER  
DIRECTOR

09/04/90  
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## NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 7-90)

|                  |                    |                          |                  |                                   |
|------------------|--------------------|--------------------------|------------------|-----------------------------------|
| OAL FILE NUMBERS | NOTICE FILE NUMBER | REGULATORY ACTION NUMBER | EMERGENCY NUMBER | PREVIOUS REGULATORY ACTION NUMBER |
|                  |                    | 90-0814-07N              |                  |                                   |

For use by Office of Administrative Law (OAL) only

1990 AUG 14 PM 3 54

OFFICE OF  
ADMINISTRATIVE LAWENDORSED  
APPROVED FOR FILING  
SEP 13 1990

Office of Administrative Law

FILED  
In the office of the Secretary of State  
of the State of California

SEP 13 1990

At 3:35 o'clock P.M.  
MARCH FONG EU, Secretary of State  
By Michele Williams  
Deputy Secretary of State

|                                     |             |                             |
|-------------------------------------|-------------|-----------------------------|
| AGENCY                              | REGULATIONS | AGENCY FILE NUMBER (If any) |
| State Department of Social Services |             | RDB #0590-18                |

## A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

|   |                          |                        |                               |
|---|--------------------------|------------------------|-------------------------------|
| 1. SUBJECT OF NOTICE  | TITLE(S)                 | FIRST SECTION AFFECTED | 2. REQUESTED PUBLICATION DATE |
|   |                          |                        |                               |
| 3. NOTICE TYPE<br><input type="checkbox"/> Notice re Proposed Regulatory Action<br><input type="checkbox"/> Other   | 4. AGENCY CONTACT PERSON | TELEPHONE NUMBER       |                               |
|   |                          |                        |                               |
| OAL USE ONLY<br><input type="checkbox"/> Approved as Submitted<br><input type="checkbox"/> Approved as Modified<br><input type="checkbox"/> Disapproved/Withdrawn | NOTICE REGISTER NUMBER   | PUBLICATION DATE       |                               |
|   |                          |                        |                               |

## B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

## 1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

|                   |                     |
|-------------------|---------------------|
| SECTIONS AFFECTED | ADOPT               |
|                   | None                |
| TITLE(S)          | AMEND               |
|                   | (See list attached) |
| MPP               | REPEAL              |
|                   | None                |

## 2. TYPE OF FILING

|   |                                      |   |  |
|---|--------------------------------------|---|--|
| <input type="checkbox"/> Regular Rulemaking (Gov. Code, § 11346)  | <input type="checkbox"/> Resubmittal | <input checked="" type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100) | <input type="checkbox"/> Emergency (Gov. Code, § 11346.1(b)) |
| <input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above. |                                      |   |  |
| <input type="checkbox"/> Print Only <input type="checkbox"/> Other (specify)  |                                      |   |  |

## 3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

Not applicable

## 4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

|   |  |  |
|---|--|--|
| <input checked="" type="checkbox"/> Effective 30th day after filing with Secretary of State | <input type="checkbox"/> Effective on filing with Secretary of State | <input type="checkbox"/> Effective other (Specify) |
|---|--|--|

## 5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

|  |  |   |
|--|--|---|
| <input type="checkbox"/> Department of Finance (Form STD. 399) | <input type="checkbox"/> Fair Political Practices Commission | <input type="checkbox"/> State Fire Marshal |
| <input type="checkbox"/> Other (Specify)                       |  |   |

## 6. CONTACT PERSON

|  |                                    |
|--|------------------------------------|
| Rosalie Clark, Chief, Regulations Development Bureau | TELEPHONE NUMBER<br>(916) 445-0313 |
|--|------------------------------------|

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

Linda S. McMahon

DATE

8-3-90

TYPED NAME AND TITLE OF SIGNATORY

Linda S. McMahon, Director

## NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 7-90) ( REVERSE)

INSTRUCTIONS FOR PUBLICATION OF NOTICE  
AND SUBMISSION OF REGULATIONS

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

**ALL FILINGS**

Enter the agency name and agency file number, if any.

**NOTICES**

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

**REGULATIONS**

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

**RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS**

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

**EMERGENCY REGULATIONS**

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

**NOTICE FOLLOWING EMERGENCY ACTION**

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

**CERTIFICATE OF COMPLIANCE**

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

**EMERGENCY REGULATIONS - READOPTION**

When submitting previously approved emergency regulations for reoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.


DELEGATED AUTHORITY ORDER

I hereby authorize and designate the following individuals as the agency contact persons who have authority, during the Office of Administrative Law review period, to make decisions and answer questions regarding regulations adopted by the Department of Social Services.

Rosalie P. Clark, Chief  
Regulations Development Bureau

James Rhoads, Assistant Chief  
Regulations Development Bureau

This designation shall be effective on 8-26-88, 1988 and shall remain in effect until superseded or cancelled.

  
Linda S. McMahon  
Director

8-26-88  
Date

B. SUBMISSION OF REGULATIONS

1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S):

SECTIONS AFFECTED:

Title(s): MPP

Sections adopted: None

Sections amended: 22-001a.(3), a.(3)(A), a.(4), and a.(5); 22-001c.(2)(A), .c.(2)(C), and c.(4); 22-001f.(1)(A), f.(1)(A) 1. through 4., f.(1)(D), and f.(2); and 22-001p.(2); 22-003.121, .122(a), and .13; 22-004.22, .221, .41, and .5; 22-005.3; 22-009.11; 22-010.2, .21, .22, and .23; 22-015.1; 22-017.2; 22-021.1 and .17; 22-022.1, .522, .71, .73, .731, .732, .75, and .8; 22-023.122(b), .124(a) and (b), .241, .242, and .243; 22-024.1, .5, .51, and .57; 22-025.2; 22-026.2, .31, and .311; 22-027.124 and .125; 22-028.2 and .5; 22-043.1 and .11; 22-045.12, .21, and .3; 22-047.1 and .2; 22-049.1, .12, .14, .15, .151, .152, .16, .52, .521, .522, .523, .53, .531, .532, .532(b), .6, .61, .612, .612(b), .612(c) (4), .82, and .9; 22-050.1, .11, .22, .23, .3, .4, .41, .42, and .43; 22-051.5; 22-053.112, .14, .142, .15, .151, .21, .211, and .212(c); 22-054.33 through .37 and .4; 22-055.1, .2, .21, .22, and .3; 22-059.11 and .12; 22-061.1, .2, .22, .222, and .4; 22-063.1; 22-064.1; 22-065.11 and .9

Sections repealed: None

Renumber and Amend Section 22-001 to read:

22-001 DEFINITIONS

22-001

~~/d/~~ The following definitions shall apply wherever the terms are used throughout Division 22.

- a. (1) Adequate Notice - (Continued)  
(2) Administrative Law Judge - (Continued)

HANDBOOK BEGINS HERE

The Administrative Law Judge shall prepare fair, impartial and independent ~~propoosed~~ decisions.

HANDBOOK ENDS HERE

- (3) Aid - For purposes of this Division "aid" includes all public ~~assistanoe~~ social services programs subject to a state hearing.
- (A) Such public social services programs include, but are not limited to, Aid to Families with Dependent Children (AFDC), the State administered programs for recipients of SSI/SSP (Division 46), Refugee Resettlement Program (RRP), the Cuban/Haitian Entrant Program (CHEP), the Food Stamp Program (FS), the California Medical Assistance Program (Medi-Cal), the Transitional Child Care Program (TCC), the Social Services Programs described in Division 30 of the Manual of Policies and Procedures (MPP), Women, Infant and Children Program (WIC), Aid for the Adoption of Children Program (AAC), Adoption Assistance Program (AAP), and Multipurpose Senior Services Program (MSSP).
- (4) Alternate Decision - A decision issued by the Director which differs from the ~~Administrative~~ Law ~~Judge's~~ proposed decision. See Section 22-062.
- (5) Authorized Representative - An individual or organization that has been authorized by the claimant or designated by the ~~Administrative~~ Law ~~Judge~~ or Department pursuant to Sections 22-010 and 22-101 to act for the claimant in any and all aspects of the state hearing or administrative disqualification hearing. (Continued)

b.    Reserved

c.    (~~6~~1)   Chief Administrative Law Judge - (Continued)

(~~7~~2)   Claimant - The person who has requested a state hearing and is or has been either:

(A)    An applicant for or recipient of aid, as defined in Section 22-001a. (~~3~~) ~~above~~; (Continued)

(C)    A representative of the estate of a deceased applicant or recipient (see Sections 22-004.4 and .5). (Continued)

(F)    The sponsor of an alien, see MPP Sections 43-119, 44-353, and 63-804.1 (Continued)

(~~8~~3)   Compliance related issues - (Continued)

(~~9~~4)   County or CWD - For purposes of this division, "county" or "CWD" generally refers to the county welfare department. The term "county welfare department" is used in Sections 22-001(~~d~~)c.(~~12~~7), 22-003 and 22-023 to mean the welfare department in the county in which the recipient resides or the county that has taken the action or inaction with which the recipient is dissatisfied. Any references to "county" or "CWD" may also refer to any state department or contractor whose actions may be subject to a state hearing.

(~~10~~5)   County Action - (Continued)

(~~11~~6)   County Hearing Officer - (Continued)

(~~12~~7)   County or CWD Representative - (Continued)

d.    (~~13~~)   Days - (Continued)

(~~14~~2)   Decision of the Director - (Continued)

(~~15~~3)   Department - (Continued)

(~~16~~4)   Director - (Continued)

e.    Reserved

f.    (~~17~~)   Filing Date

(A) All written requests for hearings shall be date stamped by the ~~Office of the Chief~~ Administrative Law Judge Adjudications Division or the CWD on the day the request is received. Unless the evidence indicates otherwise, the filing date of the claimant's written request for a state hearing shall be determined as follows:

1. If the request is mailed to the ~~Office of the Chief~~ Administrative Law Judge Adjudications Division, or to the CWD, the postmark date of the envelope;
2. If the request is delivered by hand to the ~~Office of the Chief~~ Administrative Law Judge Adjudications Division or to the CWD, the date stamped on the request for hearing;
3. If the date cannot be determined by the methods described above, three days before the request was stamped "received" by the ~~Office of the Chief~~ Administrative Law Judge Adjudications Division or the CWD;
4. If the date cannot be determined by 1. or 2. the date the request was signed.  
(Continued)

(D) If a written request is filed erroneously with the ~~Office of the Chief~~ Administrative Law Judge Adjudications Division or with a CWD in a county in which the claimant does not reside and in which the CWD has not taken any action or inaction with which the claimant is dissatisfied, the filing date shall be determined in the same manner as set forth above in Subsection (A).

(182) Final Decision - The decision prepared and adopted by the ~~Administrative Law Judge~~ resolving a state hearing case and which shall be treated, for all purposes, as the decision of the Director.

g. Reserved

h. (18) Holiday - (Continued)



- i.     Reserved
- j.     Reserved
- k.     Reserved
- l.     Reserved
- m.     Reserved
- n.     Reserved
- o.     Reserved
- p.     (201) Preliminary Hearing - (Continued)
- (21) Proposed Decision - The decision prepared by the  
              ~~#~~Administrative ~~L~~aw ~~J~~udge concerning a state hearing  
              case which he/she recommends to the Director for  
              adoption. (Continued)
- q.     Reserved
- r.     Reserved
- s.     (221) State Hearing - (Continued)
- t.     (231) Timely Notice - (Continued)
- u.     Reserved
- v.     Reserved
- w.     Reserved
- x.     Reserved
- y.     Reserved
- z.     Reserved

Amend Sections 22-003.121, .122(a), and .13 to read:

22-003 RIGHT TO A STATE HEARING

22-003

.1 (Continued)

.12 (Continued)

.121 In the event of such automatic grant adjustment, the ~~Office of the Chief~~ Administrative Law Judge Adjudications Division shall promptly review the requests for a state hearing to determine whether the basis for a request is the automatic grant adjustment. See Section 22-054.

.122 (Continued)

(a) If the ~~Administrative~~ Law Judge determines that the subject of the hearing was the wisdom or validity of such a law change, the request shall be permitted to be dismissed pursuant to Section 22-054.31.

.13 In the Food Stamp Program The placement of a household on an alternate issuance system and the length of time the household is on this system shall not be subject to the ~~state~~ hearing process. See Section 63-605.326. (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Amend Sections 22-004.22, .221, .41, and .5 to read:

22-004 REQUEST FOR A STATE HEARING (Continued)

22-004

.2 (Continued)

.22 When a written request for a state hearing is received by the CWD, a copy shall be forwarded to the ~~Office of the Chief~~ Administrative Law Judge Adjudications Division in Sacramento no later than three working days after its receipt.

.221 If the request for hearing concerns an action which is subject to the adequate notice provisions, a copy of the applicable Notice of Action, if available, shall be sent with the request. (Continued)

22-004 REQUEST FOR A STATE HEARING (Continued)

22-004

.4 (Continued)

.41 The legal representative of a claimant's estate is the executor/executrix or administrator/administratrix of the estate. If there is no estate to be probated, the representative may be a relative (i.e., parents, spouse, children, siblings, grandparents or grandchildren of the deceased claimant).

.5 If the prospective claimant dies before filing a request for a state hearing, a request may only be filed by or on behalf of the representative of the claimant's estate ~~as~~ by those individuals specified in Section 22-004.41 above.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Amend Section 22-005.3 to read:

22-005 REQUEST FOR REVIEW (Continued)

22-005

.3 The time limitations involved in requesting a state hearing (see Sections 22-009 and 22-022) shall not be suspended during the pendency of a request for review. (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Amend Section 22-009.11 to read:

22-009 TIME LIMIT ON REQUEST FOR A STATE HEARING

22-009

.1 (Continued)

- .11 If the claimant received adequate notice of the action (see Section 22-001(a)(1)), the date of the action shall be the date on which the notice was mailed to the claimant. In all other cases, the date of the action or inaction shall be considered to be the date the action was discovered. The date of discovery is the date the claimant knew, or should have know, of the action. (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Amend Sections 22-010.2, .21, .22, and .23 to read:

22-010 AUTHORIZED REPRESENTATIVE (Continued)

22-010

- .2 If the claimant has not authorized the representative in writing and is not present at the hearing, the person may be recognized as the authorized representative if he/she is an attorney or if, at the hearing, the person swears or affirms under penalty of perjury that the claimant has so authorized him/her to act as the claimant's authorized representative, and the ~~A~~Administrative Law Judge further determines the person is so authorized.
- .21 The ~~A~~Administrative Law Judge may make the determination by contacting a collateral source (e.g., the claimant).
- .22 In all such cases a written authorization shall be submitted within five days from the hearing unless this time period is extended by the ~~A~~Administrative Law Judge. (Continued)
- .23 If, at the hearing, the person cannot swear or affirm under penalty that the claimant has authorized him/her to act as the claimant's authorized representative because the claimant is incompetent, in a comatose condition, suffering from amnesia or a similar condition, the hearing may proceed at the ~~A~~Administrative Law Judge's discretion if the person is a relative, or a person who has knowledge of the claimant's circumstances and who completed and signed the Statement of Facts on the claimant's behalf. (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Amend Section 22-015.1 to read:

22-015 COUNTY WELFARE RESPONSIBILITY

22-015

- .1 Each county shall furnish to the ~~Office of the Chief~~  
Administrative ~~Law Judge~~ Adjudications Division the name of  
an individual who, in coordination with the Chief  
Administrative Law Judge, is responsible for discharging the  
requirements of Sections 22-015 through 22-028. (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and  
Institutions Code.

Reference: Sections 10553 and 10554, Welfare and  
Institutions Code.



Amend Section 22-017.2 to read:

22-017 EXPLANATION OF RIGHT TO STATE HEARING  
(Continued)

22-017

.2 The county shall also provide the explanation required in Sections 22-017.11 and .111 ~~above~~ when a claimant makes an informal complaint with the county agency.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Amend Sections 22-021.1 and .17 to read:

22-021 ADEQUATE NOTICE

22-021

.1 Except as provided in Section 22-021.2 ~~below~~, the county shall give the claimant adequate notice as defined in Section 22-001(a).(1) in the following instances:  
(Continued)

.17 When the county takes action regarding compliance related issues resulting from state hearing decisions (see Sections 22-001(~~a~~)c.(~~3~~) and 22-028). (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Amend Sections 22-022.1, .522, .71, .73, .731, .732, .75, and .8 to read:

22-022 TIMELY NOTICE - AID PENDING HEARING

22-022

- .1 Except as provided below, in all instances where the county action would result in a discontinuance, termination, suspension, cancellation, or decrease of aid, or in a change in the manner or form of payment to a protective or vendor payment, the county shall mail timely and adequate notice as defined in Sections 22-001(a)(1) and 22-001(d)(2) to the persons affected. (Continued)

22-022 TIMELY NOTICE - AID PENDING HEARING (Continued)

22-022

.5 (Continued)

.52 (Continued)

- .522 In the Food Stamp Program if a recipient fails to file a request before the effective date of the proposed action, aid pending is appropriate provided the recipient establishes good cause with the ~~Chief~~ Administrative ~~Law Judge~~ Adjudications Division or the ~~Administrative~~ Law Judge (see Section 63-804.613). (Continued)

22-022 TIMELY NOTICE - AID PENDING HEARING (Continued)

22-022

.7 Aid pending shall cease when:

- .71 The claimant withdraws or abandons the request for a state hearing (see Section 22-054.12). If the withdrawal is conditional, the county shall provide aid pending retroactively and prospectively if the request for a hearing is subsequently reinstated (see Section 22-054.211), provided that the claimant has complied with conditions set forth in the agreement accompanying the conditional withdrawal. (Continued)
- .72 (Continued)
- .73 The ~~Administrative~~ Law Judge determines, based on the record of the state hearing, that the issue involved in such hearing is one of law or change in law and not one of incorrect application of law.

.731 If the request for hearing involves multiple issues, the ~~A~~Administrative ~~L~~Law ~~J~~Judge shall determine that as to certain issues aid pending is appropriate while as to other issues aid pending is not appropriate. In such cases, aid may be reduced to the extent aid pending is not appropriate.

.732 If the matter is rescheduled for further hearing as specified in Section 22-062.13, the aid pending determination made by the ~~A~~Administrative ~~L~~Law ~~J~~Judge at the original hearing shall be considered void. Aid shall be retroactively reinstated and continued in the amount the claimant would have been paid if the proposed action were not to be taken, provided the claimant does not voluntarily and knowingly waive aid.

.74 (Continued)

.75 The claimant is granted a postponement of the hearing by the ~~A~~Administrative ~~L~~Law ~~J~~Judge at the hearing for a reason that does not constitute good cause as specified in Section 22-053.1. (Continued)

22-022 TIMELY NOTICE - AID PENDING A HEARING (Continued) 22-022

.8 After the hearing, and within ten ~~calendar~~ days from receipt of the aid paid pending decision, the claimant or the county may submit a written request to the ~~Office of the Chief~~ Administrative ~~Law Judge~~ Adjudications Division for reconsideration of the aid paid pending decision. (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Amend Sections 22-023.122(b), .124(a) and (b), .241, .242, and .243 to read:

22-023 COUNTY WELFARE AGENCY RESPONSIBILITY  
PRIOR TO THE STATE HEARING

22-023

.1 (Continued)

.12 (Continued)

.122 (Continued)

- (b) The CWD is notified by the Office of the ~~Chief~~ Administrative Law Judge Adjudications Division that it has received a written request for a state hearing. (Continued)

.123 (Continued)

.124 Misdirected Requests

- (a) In the event that a written hearing request is filed erroneously with the ~~Office of the Chief~~ Administrative Law Judge Adjudications Division, rather than with the CWD, ~~they shall forward~~ such requests shall be forwarded to the respective county.
- (b) For requests filed erroneously in a county in which the claimant does not reside, and in which the CWD has not taken any action or inaction with which the claimant is dissatisfied, these requests shall be forwarded to the Department. The Department shall forward such requests to the proper county as defined in Section 22-001(a)(c)(94). (Continued)

22-023 COUNTY WELFARE AGENCY RESPONSIBILITY  
PRIOR TO THE STATE HEARING (Continued)

22-023

.2 (Continued)

.24 (Continued)

- .241 The county representative shall notify the ~~Office of the Chief~~ Administrative Law Judge Adjudications Division if the claimant has requested an interpreter or home hearing.
- .242 The county representative shall report without delay to the ~~Chief~~ Administrative Law Judge Adjudications Division any changes in the claimant's address or any other circumstances which might affect the necessity for or conduct of the hearing. (Continued)
- .243 In the Food Stamp Program if a household requests a state hearing and informs the county that the household expects to leave the State prior to a normally scheduled hearing date, the county representative shall inform the ~~Office of the Chief~~ Administrative Law Judge Adjudications Division so that a hearing date may be scheduled and a decision rendered on an expedited basis. (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Amend Sections 22-024.1, .5, .51, and .57 to read:

22-024 PRELIMINARY HEARING PROCEDURE

22-024

- .1 The provisions for preliminary hearings set forth herein shall only be utilized by the CWD upon prior written approval of the ~~Chief~~ Administrative Law Judge Adjudications Division. (Continued)

22-024 PRELIMINARY HEARING PROCEDURE (Continued)

22-024

- .5 With the approval of the ~~Chief~~ Administrative Law Judge Adjudications Division, the county shall provide preliminary hearings in accordance with the following procedures:

.51 A preliminary hearing shall be provided by the CWD to the claimant upon notification by the ~~Chief~~ Administrative Law Judge Adjudications Division that a request for a state hearing has been filed by the claimant. (Continued)

.57 The claimant, the authorized representative, or the county may request that the ~~Chief~~ Administrative Law Judge Adjudications Division or a designee issue a subpoena duces tecum requiring attendance and/or the production of documents, at the preliminary hearing (see Sections 22-051.2 and 22-052).

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.



Amend Section 22-025.2 to read:

22-025 DISMISSAL OF A PRELIMINARY HEARING  
(Continued)

22-025

- .2 The CWD shall immediately notify the ~~Chief~~ Administrative ~~Law Judge~~ Adjudications Division upon dismissing a preliminary hearing on any of the grounds specified in Section 22-025.1 ~~above~~, and the county shall immediately implement its proposed action.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Amend Sections 22-026.2, .31, and .311 to read:

22-026 PROCEDURE AFTER THE PRELIMINARY HEARING  
(Continued)

22-026

.2 The county shall promptly supply a copy of the written decision to the claimant and to the ~~Chief~~ Administrative ~~Law~~ ~~Judge~~ Adjudications Division.

.3 (Continued)

.31 Notice of such determination, including, if the claimant desires to withdraw his/her request, a statement to that effect signed by the claimant or the authorized representative, shall be forwarded to the ~~Chief~~ Administrative ~~Law~~ ~~Judge~~ Adjudications Division with a copy of the written memorandum decision.

.311 If time limitations prevent the mailing of such notification and decision, the material shall be presented to the ~~Administrative~~ Law Judge at the state hearing for inclusion in the state hearing record. (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Amend Sections 22-027.124 and .125 to read:

22-027 HEARING NOT HELD IN COUNTY RESPONSIBLE FOR AID 22-027

.1 (Continued)

.12 (Continued)

.124 The position statement and pertinent documents shall be mailed at least five days prior to the hearing to the claimant, the authorized representative, and to the place of the hearing with instructions that the statement and attachments be presented to the ~~Administrative~~ Law ~~Judge~~ at the time of the hearing.

.125 If the county in which the hearing is held does not receive the position statement and attachments from the county of responsibility prior to the hearing, it shall contact the responsible county concerning such position statement and shall attend the hearing on the responsible county's behalf to provide information to the ~~Administrative~~ Law ~~Judge~~.  
(Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Amend Sections 22-028.2 and .5 to read:

22-028 COMPLIANCE WITH STATE HEARING DECISIONS  
(Continued)

22-028

- .2 If the decision of the Director is wholly or partially in favor of the claimant, the county shall, within 30 days of receipt of the decision, submit a compliance report, on a form approved by the Department, to the ~~Chief~~ Administrative ~~Law Judge~~ Adjudications Division. (Continued)

22-028 COMPLIANCE WITH STATE HEARING DECISIONS  
(Continued)

22-028

- .5 The claimant shall be permitted to request a new state hearing concerning his/her dissatisfaction with compliance related issues. See Section 22-001(~~d~~/c.(~~8~~3)). (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Amend Sections 22-043.1 and .11 to read:

22-043 ACKNOWLEDGEMENT OF REQUEST FOR A STATE HEARING 22-043

.1 The ~~Office of the Chief~~ Administrative Law Judge Adjudications Division shall mail to the claimant acknowledgement in writing of all requests for state hearings.

.11 Such acknowledgement shall also be sent to the county if ~~not in receipt of~~ the county did not receive the original request.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Amend Sections 22-045.12, .21 and .3 to read:

22-045 SETTING THE HEARING

22-045

.1 (Continued)

.12 The ~~Office of the Chief~~ Administrative Law Judge Adjudications Division may request verification from the claimant to support the reason why he/she cannot attend the hearing at the hearing location, and shall deny a request for a different hearing location in the absence of such requested verification.

.2 (Continued)

.21 In the Food Stamp Program, the ~~Chief~~ Administrative Law Judge Adjudications Division shall expedite the scheduling of hearings requested by households who expect to leave the State. See Section 22-023.243.

.3 The ~~Office of the Chief~~ Administrative Law Judge Adjudications Division shall mail or deliver to the claimant and the county a written notice of the time and place of the hearing not less than ten days prior to the hearing.  
(Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Amend Sections 22-047.1 and .2 to read:

22-047 GROUP HEARINGS

22-047

- .1 A group of claimants with a common complaint may request that the ~~Chief~~ Administrative Law Judge Adjudications Division establish a group hearing.
- .2 The ~~Chief~~ Administrative Law Judge Adjudications Division may schedule a group hearing when in a series of individual requests for a state hearing the sole issue set forth in the request is one involving state or federal law or changes in state or federal law. (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.



Amend Sections 22-049.1, .12, .14, .15, .151, .152, .16, .52, .521, .522, .523, .53, .531, .532, .532(b), .6, .61, .612, .612(b), .612(c)(4), .82 and .9 to read:

22-049 THE HEARING -- GENERAL RULES AND PROCEDURES

22-049

- .1 Attendance at the hearing is ordinarily limited to the claimant, authorized representative (as defined in Section 22-001.(a). (5), county representative, legal counsel, authorized interpreter, and witnesses relevant to the issue. Other persons may attend the hearing if the claimant agrees to or requests their presence and the ~~Administrative~~ Law Judge determines that their presence will not be adverse to the hearing. (Continued)
- .11 (Continued)
- .12 The ~~Administrative~~ Law Judge shall be permitted to exclude a witness during the testimony of other witnesses. (Continued)
- .13 (Continued)
- .14 The ~~Administrative~~ Law Judge shall have the authority to exclude persons who are disruptive of the hearing.
- .15 In the Food Stamp Program if the claimant is contesting an Employment Service Agency (ESA) determination of failure without good cause to comply with the work registration/job search requirements set forth in Section 63-407.4, the ESA shall participate in the hearing solely through the submission of ESA documents unless the ~~Hearing Official~~ Administrative Law Judge determines additional ESA involvement is required. Additional ESA participation shall be required if:
  - .151 The ~~Hearing Official~~ Administrative Law Judge determines that the documents submitted by ESA are not sufficient, or
  - .152 The claimant requests the right to confront an ESA representative, and the ~~Hearing Official~~ Administrative Law Judge determines fairness requires that the claimant be given an opportunity to confront an ESA representative.
- .16 If the ~~Hearing Official~~ Administrative Law Judge determines that additional ESA participation in the hearing is necessary the ~~Hearing Official~~ Administrative Law Judge shall: (Continued)

.5 (Continued)

- .52 If the claimant contends that he/she is not adequately prepared to discuss the issues because he/she did not receive adequate notice required by Section 22-021.1, this issue shall be resolved by the ~~Administrative~~ Law ~~Judge~~ at the hearing.
- .521 If the ~~Administrative~~ Law ~~Judge~~ determines that adequate notice was provided, the claimant shall agree to discuss the substantive issue or issues or the case will be dismissed.
- .522 If the ~~Administrative~~ Law ~~Judge~~ determines that adequate notice was not provided, the case shall be postponed unless the claimant waives the adequate notice requirement for purposes of proceeding with the hearing, and agrees to discuss the substantive issue or issues at the hearing.
- .523 If the notice was not adequate and involved a discontinuance, termination or reduction of aid, other than those referred to in Sections 22-022.1 through .14 aid shall be reinstated retroactively and the provisions of Section 22-022.5 shall apply.
- .53 In cases in which a jurisdictional issue is raised, either by one of the parties or by the ~~Administrative~~ Law ~~Judge~~, the parties must be prepared to submit evidence on the substantive issues except as provided in Section 22-049.532 ~~below~~.
- .531 No determination of the timeliness of the hearing request or of any other jurisdictional issue will ordinarily be made at the hearing. The request will be dismissed by a written decision if the ~~Administrative~~ Law ~~Judge~~ determines that jurisdiction does not exist, e.g., request untimely or no subject matter jurisdiction.

.532 If, prior to or at the hearing, both parties agree to discuss only the jurisdictional issue, the parties need not submit evidence on the substantive issues and the ~~Administrative~~ Law ~~Judge~~ shall take evidence only on the jurisdictional issue. Within ten days from the date of the hearing, the ~~Administrative~~ Law ~~Judge~~ shall: (Continued)

(b) Inform the parties that an additional hearing will be held on the substantive issues, and provide the parties a minimum of ten days in which to prepare on the substantive issues unless the time is waived by both parties. In this case, the ~~Administrative~~ Law ~~Judge~~'s proposed decision will address both the jurisdictional and substantive issues.

22-049 THE HEARING - GENERAL RULES AND PROCEDURES  
(Continued)

22-049

.6 An interpreter shall be provided by the state if, prior to the hearing, a party requests an interpreter or if at the hearing, the ~~Administrative~~ Law ~~Judge~~ determines that an interpreter is necessary.

.61 When the state hearing is to be held with the assistance of an interpreter, the ~~Administrative~~ Law ~~Judge~~ shall determine if the interpreter has been certified by the Department. (Continued)

.612 If the interpreter has not been certified, the ~~Administrative~~ Law ~~Judge~~ shall:

(a) (Continued)

(b) Disqualify any interpreter determined by the ~~Administrative~~ Law ~~Judge~~ not to be competent for interpretation purposes.

(c) (Continued)

(4) any other individual determined by the ~~Administrative~~ Law ~~Judge~~ to be detrimental to the hearing process or having a bias or the appearance of being biased. (Continued)

.8 (Continued)

.82 Merits of a pending state hearing shall not be discussed between the ~~Administrative~~ Law ~~Judge~~ and a party outside the presence of the other party.

.9 Whenever it is necessary that another county be joined as a party to the action in order to dispose of all issues, the ~~Administrative~~ Law ~~Judge~~ shall so order and shall, subject to Section 22-053.3, postpone the hearing, hold the record of the hearing open, or continue the hearing as necessary. (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Amend Sections 22-050.1, .11, .22, .23, .3, .4, .41, .42, and .43 to read:

22-050 EVIDENCE

22-050

- .1 The taking of evidence in a hearing shall be conducted by the ~~Administrative~~ Law ~~Judge~~ in a manner best suited to ascertain the facts and to control the conduct of the hearing.
  - .11 Prior to taking evidence, the ~~Administrative~~ Law ~~Judge~~ shall identify the issues and shall state the order in which evidence shall be received. (Continued)
- .2 (Continued)
  - .22 The ~~Administrative~~ Law ~~Judge~~ shall be permitted to exclude evidence which is irrelevant, cumulative or unduly repetitious.
  - .23 The ~~Administrative~~ Law ~~Judge~~ shall exclude evidence which is privileged under the Evidence Code if the privilege is claimed in accordance with law.
- .3 Although evidence may be admissible under Section 22-050.2, the ~~Administrative~~ Law ~~Judge~~ shall consider the nature of the evidence in assessing its probative value.
- .4 "Official Notice" describes the manner in which an ~~Administrative~~ Law ~~Judge~~ or the Director will recognize the existence and truth of certain facts which have a bearing on the issue in the case, without requiring the actual production of evidence to prove such facts. Official notice may be taken of either a proposition of law or a proposition of fact.
  - .41 The ~~Administrative~~ Law ~~Judge~~ or Director shall take official notice of those matters which must be judicially noticed by a court under Section 451 of the Evidence Code. (Continued)
  - .42 The ~~Administrative~~ Law ~~Judge~~ may take official notice of those matters set forth in Section 452 of the Evidence Code. (Continued)

.43 The ~~A~~Administrative ~~L~~Law ~~J~~Judge may take official notice of any generally accepted technical fact relating to the administration of public social service. (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Amend Section 22-051.5 to read:

22-051 THE EXAMINATION OF RECORDS AND ISSUANCE  
OF SUBPOENAS (Continued)

22-051

.5 After the hearing has commenced, the ~~Administrative~~ Law  
Judge assigned to the case shall be permitted to issue a  
subpoena or subpoena duces tecum as necessary.  
(Continued)

Authority Cited: Sections 10553 and 10554, Welfare and  
Institutions Code.

Reference: Sections 10553 and 10554, Welfare and  
Institutions Code.

Amend Sections 22-053.112, .14, .142, 15, .151, .21, .211 and .212(c) to read:

22-053 POSTPONEMENTS AND CONTINUANCES FOR ADDITIONAL EVIDENCE 22-053

.1 (Continued)

.11 (Continued)

.112 Claimants shall be permitted to request additional postponements/. ~~However~~ Such requests shall be required to meet the good cause criteria set forth in Section 22-053.16. (Continued)

.14 The ~~Administrative~~ Law ~~Judge~~ shall have the authority to postpone a hearing, at the hearing, and continue any applicable aid pending if: (Continued)

.142 The county has failed to furnish adequate notice within the meaning of Sections 22-001.1(a). (1) and 22-049.52, and the claimant requests the postponement.

.15 The ~~Administrative~~ Law ~~Judge~~ shall have the authority to postpone a hearing, for any other reason at his/her discretion.

.151 The ~~Administrative~~ Law ~~Judge~~ shall order that aid pending be continued only if the postponement is necessary to insure a full and fair hearing and the postponement did not result from any act or omission on the part of the claimant. (Continued)

22-053 POSTPONEMENTS AND CONTINUANCES FOR ADDITIONAL EVIDENCE (Continued) 22-053

.2 (Continued)

.21 If the ~~Administrative~~ Law ~~Judge~~ conducting the hearing determines that evidence not available at the hearing is necessary for the proper determination of the case, the ~~Administrative~~ Law ~~Judge~~ shall have the authority, to:



.211 Continue the hearing to a later date. In connection therewith, the ~~Administrative~~ Law Judge shall have the authority to direct either party to produce additional evidence.  
(Continued)

.212 (Continued)

(c) The ~~Administrative~~ Law Judge conducting the hearing shall have the authority to order a further hearing if the nature of the additional information or the rebuttal makes a further hearing necessary.  
(Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Amend Sections 22-054.33 through .37 and .4 to read:

22-054 DISMISSALS (Continued)

22-054

.3 (Continued)

- .33 The ~~Administrative~~ Law ~~Judge~~ determines at the hearing that the claimant or authorized representative is unwilling to present his/her case.
  - .34 The ~~Administrative~~ Law ~~Judge~~ determines that the identical issue has been the subject of a previous state hearing involving the claimant.
  - .35 The person who requests the hearing does not have standing to request the hearing. See Section 22-001~~(d)~~c.(72).
  - .36 The ~~Administrative~~ Law ~~Judge~~ fails to receive a written authorization following the hearing as specified in Section 22-010.2.
  - .37 The request for hearing raises a compliance issue, i.e., an allegation that the county has failed to comply with a previously adopted state hearing decision. See Section 22-028.
- .4 The Chief Administrative Law Judge shall have authority to dismiss, without a hearing and written decision, a hearing request which is subject to dismissal under Sections 22-054.31/ ~~35~~ or .37. (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Amend Sections 22-055.1, .2, .21, .22, and .3 to read:

22-055 DISQUALIFICATION OF AN ADMINISTRATIVE LAW JUDGE 22-055

- .1 An ~~Administrative~~ Law Judge shall voluntarily disqualify himself or herself and withdraw from any proceeding in which he/she cannot give a fair and impartial hearing or in which he/she has an interest.
- .2 A party may request at any time prior to the close of the record, that the ~~Administrative~~ Law Judge be disqualified upon the grounds that a fair and impartial hearing cannot be held or a decision cannot be rendered.
  - .21 A request made prior to the close of the hearing record shall promptly be ruled upon by the ~~Administrative~~ Law Judge.
  - .22 After the close of the record, and issuance of the decision, a request for rehearing must be filed in order to disqualify an ~~Administrative~~ Law Judge.
- .3 If, at the beginning or during the hearing, the ~~Administrative~~ Law Judge upholds a party's motion for disqualification, the matter shall be postponed. A postponement due to a disqualification of an ~~Administrative~~ Law Judge shall be considered a postponement with good cause. If, after the hearing, but before the close of the record the ~~Administrative~~ Law Judge determines that disqualification is appropriate, the provisions of Section 22-061 shall apply.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Amend Sections 22-059.11 and .12 to read:

22-059 COMMUNICATIONS AFTER HEARING

22-059

.1 (Continued)

- .11 Oral and written communications after the hearing concerning the status of the decision, or the date of delivery of additional evidence to be submitted under the provisions of Section 22-053.212, or protesting an ~~Administrative~~ Law ~~Judge's~~ determination under Section 22-022.63 with respect to aid pending a hearing or a disqualification request under the provisions of Section 22-055, are not improper; and
- .12 An ~~Administrative~~ Law ~~Judge's~~ shall have authority on his/her own motion or at the request of either party to reopen the record for receipt of additional information, if all parties are notified of the reason for the reopening and the submission of such evidence conforms to the requirements of Sections 22-053.212/ and ~~Sections 22-053.3~~.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Amend Sections 22-061.1, .2, .22, .222, and .4 to read:

22-061 SUBMISSION OF PROPOSED DECISION/ADOPTION  
OF FINAL DECISION

22-061

- .1 After the hearing has been closed, the ~~Administrative~~ Law ~~Judge~~ shall submit a proposed decision for review by the Chief Administrative Law Judge and submission to the Director, or shall adopt a final decision pursuant to the authority delegated to the administrative law judge by the Director.
- .2 If the ~~Administrative~~ Law ~~Judge~~ who heard the case is unavailable to prepare the proposed decision, the Chief Administrative Law Judge shall contact the claimant and notify him/her that the case is being assigned to another ~~Administrative~~ Law ~~Judge~~ for preparation of the decision on the record. (Continued)
- .22 An ~~Administrative~~ Law ~~Judge~~ shall be considered unavailable within the meaning of this section if he/she (Continued)
- .222 Has ceased employment as an ~~Administrative~~ Law ~~Judge~~; (Continued)

22-061 SUBMISSION OF PROPOSED DECISION/ADOPTION  
OF FINAL DECISION (Continued)

22-061

- .4 Decisions rendered by ~~Administrative~~ Law ~~Judge~~ pursuant to the authority delegated to them by the Director shall be considered final upon signing and dating by the ~~Administrative~~ Law ~~Judge~~.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Amend Section 22-063.1 to read:

22-063 NOTICE OF DECISION

22-063

- .1 After the ~~A~~Administrative ~~L~~Law ~~J~~Judge's proposed or final decision is adopted or an alternate decision is rendered by the Director, a copy shall be mailed to the claimant and the county. (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Amend Section 22-064.1 to read:

22-064 AVAILABILITY OF STATE HEARING RECORDS

22-064

- .1 The verbatim record of the testimony and exhibits, or an official report containing the substance of what transpired at the hearing, together with all papers and the request filed in the proceedings, and the ~~Administrative~~ Law ~~Judge's~~ proposed decision shall constitute the exclusive record for decision. Such materials shall be available to the claimant and the county during normal working hours at the ~~Office of the Chief Administrative Law Judge~~ Adjudications Division or at a mutually agreed-upon location for three years after the date of the decision of the Director.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Amend Sections 22-065.11 and .9 to read:

22-065 REHEARING

22-065

.1 The claimant or the county may file a request for a rehearing.

.11 Such request shall be in writing and shall be filed with the ~~Office of the Chief~~ Administrative Law Judge Adjudications Division not more than 30 days after receipt of the hearing decision. (Continued)

22-065 REHEARING (Continued)

22-065

.9 After a rehearing request has been granted, it shall be permitted to be withdrawn by the requesting party subject to the approval of the Chief Administrative Law Judge, his/her designee or the ~~Administrative~~ Law Judge.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.



OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION

OF

APPROVAL

**FILED**  
In the office of the Secretary of State  
of the State of California

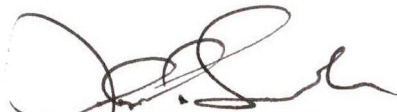
SEP 13 1990

At 3:35 o'clock P.M.  
MARCH FONG EU, Secretary of State  
By Michael L. Williams  
Deputy Secretary of State

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the City of Sacramento, State of California.

Submitting Agency: Social Services

OAL File No: 90-0814-07



JOHN SMITH  
CHIEF COUNSEL

09/13/90

# REGULAR

## STATE OF CALIFORNIA - OFFICE OF ADMINISTRATIVE LAW NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 90)

|                  |                    |                          |                  |                                   |
|------------------|--------------------|--------------------------|------------------|-----------------------------------|
| OAL FILE NUMBERS | NOTICE FILE NUMBER | REGULATORY ACTION NUMBER | EMERGENCY NUMBER | PREVIOUS REGULATORY ACTION NUMBER |
|                  |                    | 2-90-0821-01N            |                  |                                   |

For use by Office of Administrative Law (OAL) only

1990 AUG 21 AM 9 54

OFFICE OF  
ADMINISTRATIVE LAW

ENDORSED  
APPROVED FOR FILING

SEP 20 1990

Office of Administrative Law

FILED  
In the office of the Secretary of State  
of the State of California

SEP 20 1990

At 4:27 o'clock P.M.  
MARCH KING EU, Secretary of State  
By [Signature] Deputy Secretary of State

|                                     |             |                             |
|-------------------------------------|-------------|-----------------------------|
| AGENCY                              | REGULATIONS | AGENCY FILE NUMBER (if any) |
| STATE DEPARTMENT OF SOCIAL SERVICES |             | RDB#0890-36                 |

### A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

|   |                           |                        |                               |
|---|---------------------------|------------------------|-------------------------------|
| 1. SUBJECT OF NOTICE  | TITLE(S)                  | FIRST SECTION AFFECTED | 2. REQUESTED PUBLICATION DATE |
| 3. NOTICE TYPE<br><input type="checkbox"/> Notice re Proposed Regulatory Action<br><input type="checkbox"/> Other   | 4. AGENCY CONTACT PERSON  | TELEPHONE NUMBER       |                               |
| OAL USE ONLY<br><input type="checkbox"/> Approved as Submitted<br><input type="checkbox"/> Approved as Modified<br><input type="checkbox"/> Disapproved/Withdrawn | ACTION ON PROPOSED NOTICE | NOTICE REGISTER NUMBER | PUBLICATION DATE              |

### B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

#### 1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

|                   |   |
|-------------------|---|
| SECTIONS AFFECTED | ADOPT                                       |
|                   | AMEND                                       |
|                   | 30850, 30853, 30855, 30857, 30858 and 30859 |
| TITLE(S)<br>22    | REPEAL                                      |

#### 2. TYPE OF FILING

☐ Regular Rulemaking (Gov. Code, § 11346) ☐ Resubmittal ☒ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100) ☐ Emergency (Gov. Code, § 11346.1(b))

☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

☐ Print Only ☐ Other (specify)

#### 3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

Not applicable

#### 4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

☒ Effective 30th day after filing with Secretary of State ☐ Effective on filing with Secretary of State ☐ Effective other (Specify)

#### 5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☐ Department of Finance (Form STD. 399) ☐ Fair Political Practices Commission ☐ State Fire Marshal

☐ Other (Specify)

|  |                  |
|--|------------------|
| 6. CONTACT PERSON                                    | TELEPHONE NUMBER |
| Rosalie Clark, Chief, Regulations Development Bureau | 445-0313         |

7. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

|                                      |         |
|--------------------------------------|---------|
| SIGNATURE OF AGENCY HEAD OR DESIGNEE | DATE    |
| [Signature]                          | 8-20-90 |

TYPED NAME AND TITLE OF SIGNATORY

LINDA S. McMAHON, DIRECTOR

## NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 7-90) ( REVERSE)

INSTRUCTIONS FOR PUBLICATION OF NOTICE  
AND SUBMISSION OF REGULATIONS

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

**ALL FILINGS**

Enter the agency name and agency file number, if any.

**NOTICES**

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

**REGULATIONS**

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

**RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS**

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

**EMERGENCY REGULATIONS**

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

**NOTICE FOLLOWING EMERGENCY ACTION**

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

**CERTIFICATE OF COMPLIANCE**

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

**EMERGENCY REGULATIONS - READOPTION**

When submitting previously approved emergency regulations for reoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.



~~§ 30850~~ <sup>35400</sup>  
(p. 574)

SOCIAL SERVICES—HEALTH SERVICES

TITLE 22

(Register 82, No. 11—3-13-82)

SUBCHAPTER <sup>9</sup>~~3.5~~ INTERSTATE COMPACT ON THE PLACEMENT  
OF CHILDREN (ICPC)

Article 1. Definitions and Conditions

<sup>35400</sup>  
~~30850~~. Definitions.

- (a) "DSS" means the California Department of Social Services.
- (b) "ICPC" means "Interstate Compact on the Placement of Children".
- (c) "ICPC 100A" means the Department of Social Services form "Request to Place Child".
- (d) "ICPC 100B" means the Department of Social Services form "Report on Placement Status of Child".
- (e) "ICA" means Interstate Compact Administrator.
- (f) "Local California agency" means the Department of Social Services or a licensed public or private adoption agency.
- (g) "Member state" means a state which is a member of the Interstate Compact on the Placement of Children.
- (h) "Placement" means the arrangement for the care of a child in a family that has been studied and approved for adoption or has had a preplacement interview completed by a licensed adoption agency.

NOTE: Authority cited: Section 10553, Welfare and Institutions Code. Reference: Sections 265 and 267, Civil Code.

HISTORY:

- 1. New Subchapter 3.5 (Articles 1-3, Sections 30853-30859, not consecutive) filed 2-2-82; effective thirtieth day thereafter (Register 82, No. 6).

<sup>35401</sup>  
Article 2. Relinquishment Adoptions

~~30853~~. Children Leaving California.

- (a) To initiate a home evaluation:
  - (1) The local California agency shall summarize information about the child, request a home study, and:
    - (A) If the receiving state local adoption agency is known, forward one copy of the child summary and home study request to that local agency and one copy to the receiving state appropriate public authority indicating that the ICPC 100A is being submitted through the DSS.
    - (B) If the receiving state local adoption agency is unknown, forward two copies of the child summary and home study request to the receiving state appropriate public authority, indicating that the ICPC 100A is being submitted through the DSS.
    - (C) In all cases, forward one copy of the home study request and five copies of the ICPC 100A to the DSS.
  - (2) The DSS shall sign and forward four copies of the ICPC 100A to the receiving state appropriate public authority.
  - (3) (Reserved)
  - (4) The DSS shall forward one copy of the approved/disapproved ICPC 100A to the local California agency.
- (b) To place a child in a home which has been approved by the receiving state:

**TITLE 22****SOCIAL SERVICES—HEALTH SERVICES****(Register 82, No. 11—3-13-82)****§ 30855 35403****(p. 574.1)**

(1) The sending local California agency shall make the arrangements for and complete the placement directly with the local adoption agency in the receiving state.

(2) The sending local California agency shall forward to the DSS:

(A) Three copies of the ICPC 100B completed with the date of placement;

(B) One copy of all legal and other pertinent documents not previously submitted to the receiving state appropriate public authority or local adoption agency.

(3) The DSS shall sign and forward the ICPC 100B and other material to the receiving state appropriate public authority.

(c) To place a child when an approved home study by a receiving state adoption agency has been previously exchanged with the sending local California agency:

(1) The local California agency shall forward to the DSS:

(A) Five copies of the completed ICPC 100A;

(B) Two copies of the approved home study and all legal and other pertinent documents not previously submitted to the receiving state.

(2) The DSS shall sign and submit the ICPC 100A and other material to the receiving state appropriate public authority for approval.

(3) (Reserved)

(4) The DSS shall forward one copy of the approved/disapproved ICPC 100A to the local California agency.

(5) When placement has been approved by the receiving state, the local California agency shall proceed in accordance with Section 30853(b) above.

(d) (Reserved)

(e) To request continued supervision for those cases in which placement has been made in California and the child and family subsequently move to another member state before the adoption is final:

(1) The local California agency shall forward to the DSS:

(A) Five copies of the completed ICPC 100A,

(B) Three copies of the home study, child study, summary of its supervisory reports, and legal and other pertinent documents.

(2) The local California agency shall request the receiving state local agency to advise the family of the requirements necessary for completion of the adoption.

(3) The DSS shall sign and forward to the receiving state appropriate public authority for approval:

(A) Four copies of the ICPC 100A,

(B) Two copies of the home study, child study, and other legal and pertinent documents.

(4) (Reserved)

(5) The DSS shall forward one copy of the approved/disapproved ICPC 100A to the local California agency.

NOTE: Authority cited: Section 10553, Welfare and Institutions Code; and Section 1530, Health and Safety Code. Reference: Sections 265 and 267, Civil Code.

**HISTORY:**

1. Editorial correction of subsections (a) and (c)-(e) (Register 82, No. 11).

**30855. Children Entering California.**

(a) When a home evaluation request is submitted to California from a sending member state:

(1) Following the receipt of the home study request and four copies of ICPC 100A:

(A) The DSS shall forward the request to the appropriate local California agency.



35405  
§ 30857

SOCIAL SERVICES—HEALTH SERVICES

TITLE 22

(p. 574.2)

(Register 82, No. 11—3-13-82)

(B) The local California agency shall complete the home study and forward the home study report directly to the sending state appropriate public authority with a copy to the DSS.

(C) The DSS shall approve or disapprove the placement on the ICPC 100A, based upon the recommendation of the local California agency, and forward to the sending state appropriate public authority with a copy to the sending agency.

(b) To place a child in a home which has an approved home study by a local California agency:

(1) The local California agency shall make the arrangements for and complete the placement directly with the sending agency.

(2) Upon completion of placement, the DSS shall require a completed copy of the ICPC 100B from the sending state appropriate public authority.

(3) The DSS shall forward the ICPC 100B to the appropriate local California agency.

(c) To place a child when an approved home study by a local California agency has been previously exchanged with the sending agency:

(1) The DSS shall require that the sending state appropriate public authority shall submit:

(A) Four copies of the ICPC 100A;

(B) One copy of all legal and other pertinent documents not previously submitted to the local California agency.

(2) The DSS shall return the approved or disapproved ICPC 100A to the sending state appropriate public authority with a copy to the local California agency.

(3) When the local California agency has received the ICPC 100A approving placement, the agency shall proceed in accordance with Section 30855(b) above.

(d) The local California agency providing supervision shall forward supervisory reports, as indicated on the ICPC 100A, directly to the sending state appropriate public authority.

NOTE: Authority cited: Section 10553, Welfare and Institutions Code; and Section 1530, Health and Safety Code. Reference: Sections 265 and 267, Civil Code.

35405 Article 3. Independent Adoptions

30857. General.

(a) The following provisions apply to the natural parent(s).

(1) Only the natural parent(s) may make adoptive placement plans for his/her child.

(2) The natural parent(s) is considered the sending agency.

(3) The natural parent(s) remains financially responsible for the child until the adoption is made final.

NOTE: Authority cited: Section 10553, Welfare and Institutions Code. Reference: Sections 224q and 265, Civil Code.

35407 30858. Children Leaving California.

(a) The DSS [because California is the state where the natural parent(s) lives] shall request the natural parent(s) to submit to the ICA for forwarding, or to the receiving state appropriate public authority (the state where the prospective adoptive parents live) the following:

**TITLE 22**

**SOCIAL SERVICES—HEALTH SERVICES**

(Register 82, No. 11—3-13-82)

§ 30859  
(p. 574.3)

35409

- (1) Five copies of the completed ICPC 100A.
- (2) Three copies of a family history including but not limited to the following:
  - (A) Composition of the family.
  - (B) Marital status of the parents.
  - (C) Age, physical appearance, religion, personality, and mental and physical disabilities.
  - (D) School and employment history.
  - (E) Reason for placement in another state.
  - (F) Medical information on the child (may be submitted after birth).
- (3) Three copies of a statement notarized by the parent confirming the plan for adoptive placement, including the name(s) and address of the prospective adoptive parent(s).

- (c) (Reserved)
- (1) (Reserved)
- (2) (Reserved)
- (3) The DSS shall notify the natural parent(s) of the receiving state decision.
- (d) If prospective adoptive parents move from California to another member state before an independent adoption is completed, the DSS district office or delegated California adoption agency which has had the responsibility for investigating the independent adoption shall:

- (1) Send two copies of a summary of information on the child and prospective family to the receiving state appropriate public authority, i.e., the state to which they are moving, indicating that the Form ICPC 100A is being submitted through the DSS.

- (2) The DSS shall sign and forward the ICPC 100A to the receiving state appropriate public authority.

- (3) (Reserved)

- (4) The DSS shall forward one copy of the ICPC 100A to the district office or delegated local California agency.

NOTE: Authority cited: Section 10553, Welfare and Institutions Code. Reference: Section 265, Civil Code.

**HISTORY:**

1. Editorial correction renumbering subsections (Register 82, No. 11).

**30859. Children Entering California.**

- (a) The sending agency [the natural parent] shall furnish the following information to the DSS:

- (1) Five copies of the completed ICPC 100A.
- (2) Three copies of a family history including but not limited to the following:

- (A) Composition of the family.
- (B) Marital status of the parents.
- (C) Age, physical appearance, religion, personality, and mental and physical disabilities.

- (D) School and employment history.
- (E) Reason for placement in another state.
- (F) Medical information on the child (may be submitted after birth).
- (3) Three copies of a statement notarized by the parent confirming the plan for adoptive placement, including the name(s) and address of the prospective adoptive parent(s).

- (b) Before a child is permitted to enter California, a preplacement interview shall be held with the prospective adoptive parent(s) by a DSS district office or an adoption agency delegated responsibility by the DSS for making studies and reports to the court on independent adoptions. The interview shall be to assure that the planned placement is not contrary to the interests of the child



§ ~~30859~~ <sup>35409</sup>  
(p. 574.4)

SOCIAL SERVICES—HEALTH SERVICES

TITLE 22

(Register 82, No. 11—3-13-82)

(1) If the child is unborn and placement is planned shortly after birth, the DSS shall be notified of the proposed placement at least 30 days prior to the expected birth to allow time for the preplacement interview.

(c) Upon receipt of the information required in (a) above and completion of the preplacement interview:

(1) The DSS shall approve or deny the request for placement on the ICPC 100A and return it to the sending agency and the sending state appropriate public authority.

(2) The prospective adoptive parent(s) shall be notified of the decision by the DSS.

NOTE: Authority cited: Section 10553, Welfare and Institutions Code. Reference: Sections 265 and 267, Civil Code.



**Memorandum**

To : Office of Administrative Law  
555 Capitol Mall Suite 1290  
Sacramento, CA 95814

Date : August 10, 1990

Subject: ICPC Renumbering  
RDB# 0890-36

From : **Department of Social Services**

The State Department of Social Services (SDSS) is hereby submitting this correction of a printing error and nonsubstantive filing for the Interstate Compact on the Placement of Children (ICPC) regulations.

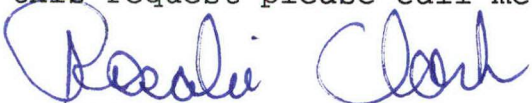
This nonsubstantive filing will renumber these regulations into a logical format that will be consistent with current Adoptions regulations in the California Code of Regulations (CCR). It also corrects reference cites within these sections.

On July 31, 1987, OAL#87-0731-03 Adoptions regulations were filed with the Office of Administrative Law and became effective October 1, 1987. (see endorsed file copy attached). This package was a comprehensive review and revision of the Adoptions regulations which included renumbering these regulations in their entirety. At that time, the ICPC regulations were not included in this renumbering and were not proposed for repeal.

During a telephone conversation between David Potter the attorney at OAL and Roy Howard of my staff it was discovered that because of this filing the ICPC regulations were inadvertently removed from the CCR, and would need to be reprinted. This printing error was not corrected and it has recently come to our attention that these regulations are still not included in the CCR.

Therefore, the Department requests that OAL print these regulations in the CCR and approve the renumbering so that the users have a complete copy of the Adoptions regulations.

Thank you for your time and consideration in reviewing this nonsubstantive filing, and if you have any questions regarding this request please call me at 5-0313.



Rosalie Clark, Chief  
Regulations Development Bureau

Attachments

RESUBMITTAL  
FACE SHEET  
FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE OFFICE OF ADMINISTRATIVE LAW

ML  
eff 10/1  
Sam  
87 0731-05  
(See Instructions on Reverse)  
RDB #0285-14

OFFICE OF ADMINISTRATIVE LAW

ENDORSED  
APPROVED FOR FILING  
SEP 01 1987

Office of Administrative Law  
For use of Office of Adm Law

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

Department of Social Services

(AGENCY)

*John S. McNeil*

AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date: 8/31/87

ENDORSED FILED  
IN THE OFFICE OF

SEP 1 4 43 PM 1987

MARCH FONG EU  
SECRETARY OF STATE  
OF CALIFORNIA

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING  
(See instructions)

TITLE

TELEPHONE

Rosalie P. Clark, Chief, Regulations Development Bureau

445-0313

2. Type of filing, (check one) ☐ 30-day Review ☐ Emergency ☐ Certificate of Compliance (Complete Part 4 below)
- ☒ Regulatory changes resulting from Govt. Code 11349.7-review (Complete Part 6 below)
- ☐ Nonsubstantive changes with nonregulatory effect ☐ Printing Error Correction

3. a. Specify California Administrative Code title and sections as follows:

SECTIONS ADOPTED:

Title See Attachment #1

SECTIONS AMENDED:

See Attachment #1A

SECTIONS REPEALED:

See Attachments #1B through #1H

b. The following sections listed in 3a contain modifications to the text originally made available to the public:

See Attachment #2

4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)

- ☐ prior to the emergency adoption
- ☐ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.

5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?

- ☐ No ☒ Yes, if yes, give date(s) of prior submittal(s) to OAL: October 2, 1986

6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?

- ☐ No ☒ Yes, if yes, give date statement was submitted to OAL May 31, 1983

7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)

- ☐ Fair Political Practices Commission (Include FPCC approval stamp) ☐ Building Standards Commission (Attach approval)
- ☐ State Fire Marshall (Attach approval) ☐ Department of Finance (Attach properly signed Std. 399)
- ☐ Other \_\_\_\_\_

(SPECIFY AGENCY)

8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER

October 4, 1985

b. DATE OF FINAL AGENCY ACTION

August 31, 1987

c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c))

July 7 through July 1986; June 19, 1987 through July 1987

9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)

- a. ☒ Effective 30th day after filing with the Secretary of State.
- b. ☐ Effective upon filing with the Secretary of State.
- c. ☐ Effective on \_\_\_\_\_ as required or allowed by the following statute(s): \_\_\_\_\_
- d. ☐ Effective on \_\_\_\_\_ (Designate effective date *earlier than* 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)
- Attach request demonstrating good cause for early effective date. Request subject to OAL approval.
- e. ☐ Effective on \_\_\_\_\_ (Designate effective date *later than* the normal effective date for the type of order filed.)

Attachment #1: Sections Adopted

|                        |                     |                     |
|------------------------|---------------------|---------------------|
| 70-100(a) through (yy) | 70-501              | 70-708.1            |
| 70-200                 | 70-502              | 70-800              |
| 70-201.1 through .4    | 70-503.1 through .7 | 70-801.1 and .2     |
| 70-202.1 through .4    | 70-504.1 through .3 | 70-802.1 through .4 |
| 70-203.1               | 70-505.1            | 70-803.1            |
| 70-204.1 through .3    | 70-506.1 through .8 | 70-804.1 through .4 |
| 70-205.1 through .4    | 70-507.1 through .8 | 70-805.1 and .2     |
| 70-300                 | 70-508.1 through .9 | 70-806.1            |
| 70-301.1 through .4    | 70-509.1 through .4 | 70-807.1            |
| 70-302.1 and .2        | 70-700              | 70-808.1            |
| 70-303.1 through .9    | 70-701.1 through .4 | 70-809.1 and .2     |
| 70-400                 | 70-702.1            |                     |
| 70-401.1 through .8    | 70-703.1 through .3 |                     |
| 70-402.1 through .7    | 70-704.1            |                     |
| 70-403.1 through .7    | 70-705.1            |                     |
| 70-404.1               | 70-706.1            |                     |
| 70-405.1 and .2        | 70-707.1 and .2     |                     |
| 70-500                 |                     |                     |

Attachment #1A: Sections Amended

70-600  
70-601.1, .2, .3, .4, .5, .6, and .7  
70-602  
70-603.1, .4, .5, .6, .7, .8, and .9  
70-604.2, .4, and .7  
70-605.3 and .4  
70-606.1  
70-607.3, .4, and .6  
70-608.2 and .5

Attachment #1B: Sections Repealed

70-802.1 through .5

Attachment #2: Modified Text Made Available to Public During Second  
15-Day Renotice.

70-100(d), (h), (z), and (zz)  
70-201.1 and .3  
70-203.1  
70-205.3  
70-301.1  
70-302.1(J) and (S)  
70-303.1, .2, .3, .7, and .8  
70-401.13  
70-403.73  
70-405.121  
70-503.713  
70-504.1  
70-506.52  
70-506.81  
70-507.2, .4, .5, .6, .7, and .8  
70-508.75  
70-600  
70-606.15  
70-701.1 and .3  
70-702.1  
70-703.2 and .3  
70-705.1  
70-708.1  
70-802.1 and .4  
70-806.1  
70-809.1

Repeat Sections 30517 through 30611, not consecutive as follows:

**TITLE 22 SOCIAL SERVICES—HEALTH SERVICES** (p. 519)  
(Register 82, No. 6—2-8-82)

**CHAPTER 3. ADOPTIONS AND CHILD PLACING AGENCIES**

**Subchapter**

1. Adoption Agencies Licensing Application
2. Relinquishment Adoptions
3. Independent Adoptions
4. Adoption of Indian Children Subject to Provisions of the Federal Indian Child Welfare Act of 1978

**DETAILED ANALYSIS**

**SUBCHAPTER 1. ADOPTION AGENCIES LICENSING APPLICATION**

**Article 1. Licensing**

**Section**

30517. Maternity Care Plan  
30519. County Adoption Agency Agreements—Maternity Care Program  
30521. To Whom Payment is Made  
30523. Period for Which Payment Can Be Made  
30525. Repayment of Maternity Care

**Article 2. Organization and Administration of an Adoption Agency**

**Section**

30527. Administration—Public and Private Agencies  
30545. Finances—Public Agencies

**Article 3. Agency Offices and Records**

**Section**

30567. Records, Reports and Statistics  
30569. Case Records—Relinquishment and Independent Adoptions  
30571. Independent Adoptions Case Records  
30573. Case Documents Filed with SDSW  
30575. Forms and Form Letters  
30577. Continuing Agency Responsibility  
30579. Completing Casework Services  
30581. Case Records of Terminated Adoption Services

**SUBCHAPTER 2. RELINQUISHMENT ADOPTIONS**

**Article 1. Program in Adoption Placement Agency**

**Section**

30582. Definitions  
30583. Agency Program  
30585. Agency Standards of Services  
30587. Case Recording  
30589. Acceptable Medical Reports

**Article 2. Natural Parents and Children**

**Section**

30591. Intake Policies  
30595. Required Study—Natural Parents  
30597. Maternity Care Program  
30599. Who May Receive Maternity Care Assistance  
30601. Resources Available to the Mother  
30603. Legal Residence  
30605. Services and Study—The Child  
30607. Authorizations for Release of Information  
30609. Authorization for Medical Care  
30611. Preadoptive Care

Authority: Welfare and Institutions Code Section 10553 and 10554

Reference: Welfare and Institutions Code Section 10553 and 10554

Repeal Sections 30616 through 30663, not consecutive as follows:

## SOCIAL SERVICES—HEALTH SERVICES

## TITLE 22

(Register 82, No. 8—2-8-82)

(p. 520)

## Article 3. Relinquishment

## Section

- 30616. Language Translation and/or Reading
- 30619. Corrections or Alterations to the Relinquishment Form
- 30622. Copy to Parent

- 30625.1. Revocation
- 30625.3. Procedures Following Revocation
- 30625.5. Rescission
- 30625.7. Procedures Following Requests to Rescind

## Article 3.5. Termination of Parental Rights

## Section

- 30626. Termination of Parental Rights
- 30626.1. Definitions
- 30626.2. Procedures Regarding Alleged Natural Father

## Article 4. Work With Applicants for Children

## Section

- 30627. Acceptance of Applications
- 30629. Application—Prerequisite to Study
- 30631. Selecting Homes for Study
- 30633. Interviews During Study
- 30635. Authorizations
- 30637. Content of Study

## Article 5. Placement and Supervision

## Section

- 30639. Factors in Placement
- 30641. Responsibility of Agency to Inform Adopting or Foster Parents About Law Regarding Concealment of a Child
- 30643. Selection of Adoptive Parents for Child
- 30645. Placement Agreement Between the Agency and the Adoptive Parent or Parents
- 30647. Supervisory Period After Placement for Adoption
- 30649. Services and Legal Completion of Adoption When Families Move After Placement

## Article 6. Court Proceedings and Completion of Adoption

## Section

- 30651. Medical Responsibility of the Agency
- 30653. Responsibility of Agency to Tell Petitioners About Disbursement Report
- 30655. Agency Joinder and Consent to Adoption
- 30657. Court Report by Agency
- 30659. Pleading by Agency
- 30661. Motion by Agency for Approval to Terminate Placement
- 30663. Certificate of Adoption

Authority: Welfare And Institutions Code Sections 10553 and 10554

Reference: Welfare and Institutions Code Sections 10553 and 10554

Repeal Sections 30665 through 30713; not consecutive as follows:

**TITLE 22 SOCIAL SERVICES—HEALTH SERVICES**  
(Register 82, No. 6—2-6-82)

(p. 521)

**Article 7. Aid for the Adoption of Children**

|         |  |
|---------|--|
| Section | Purpose                                    |
| 30665.  | Children and Families Served               |
| 30667.  | Recruitment and Information                |
| 30669.  | Exploration of Resources                   |
| 30670.  | Financial Assistance                       |
| 30671.  | Aid for the Adoption of Children Agreement |
| 30672.  | Record Required                            |
| 30672.1 | Responsibility for Payment                 |
| 30673.  | Private Agency—Cost Reimbursement          |
| 30674.  |  |

**Article 8. Adoption Resource Referral Center**

|         |  |
|---------|--|
| Section | Purpose  |
| 30675.  | Registration   |
| 30677.  | Referrals  |
| 30679.  | Discontinuance Notifications                                 |
| 30681.  | Cooperation With Adoption Resource Exchange of North America |
| 30683.  |  |

**Article 9. Grievance Procedures—Relinquishment Adoption Program**

|         |                      |
|---------|----------------------|
| Section | Grievance Procedures |
| 30684.  |                      |

**SUBCHAPTER 3. INDEPENDENT ADOPTIONS**

**Article 1. The Study**

|         |  |
|---------|--|
| Section | Independent Adoption   |
| 30685.  | Services to Biological Parents, Child and Petitioners            |
| 30686.  | Time Allowed for Study   |
| 30687.  | The Adoptive Home  |
| 30688.  | Content of the Study   |
| 30689.  | The Child  |
| 30691.  | The Parents  |
| 30693.  | Adoptive Petitioners Absent From California                      |
| 30695.  | The Narrative Record   |
| 30697.  | Responsibility of Agency to Tell Petitioners About Disbursement  |
| 30699.  | Report   |
| 30701.  | Responsibility of Agency to Inform Petitioners About Concealment |
|         | Provisions   |
| 30703.  | Medical Reports and Examinations                                 |
| 30705.  | Authorization  |
| 30707.  | Verifications  |
| 30709.  | Verification of Removal of Child from Adoptive Home              |

**Article 2. Other Processes Related to Study**

|         |                      |
|---------|----------------------|
| Section | Concurrent Petitions |
| 30711.  |                      |
| 30713.  | Extension of Time    |

Authority : Welfare and Institutions Code Sections 10553 and 10554

Reference: Welfare and Institutions Code Sections 10553 and 10554

Repeal Sections 30715 through 30807, not consecutive as follows:

## SOCIAL SERVICES—HEALTH SERVICES

## TITLE 22

(p. 522)

(Register 22, No. 6—2-8-82)

## Article 3. Consent

## Section

- 30715. Requirements Prior to Taking a Consent
- 30717. Translation or Reading of Consent Form
- 30719. Taking a Consent; Content of a Consent Form
- 30721. Copy to Consenting Parents and Petitioners
- 30723. Correcting or Altering a Consent
- 30724. Termination of Parental Rights
- 30724.1. Definitions
- 30724.2. Procedures Regarding Alleged Natural Father

## Article 4. The Court Report

## Section

- 30725. Filing
- 30727. Content
- 30729. Supplemental Reports
- 30731. Reporting to Court on Serious Questions

## Article 5. Court Proceedings and Completion of Adoption

## Section

- 30735. Certificate of Adoption

## Article 6. Case Files, Records and Reports

## Section

- 30737. Case Records Confidential

## Article 7. Planning for Child in Denials and Dismissals

## Section

- 30801. Responsibilities and Alternatives When Adoption is Not to be Completed
- 30803. Commitment Procedures
- 30805. Permanent Plan
- 30807. Commitment Termination

Authority: Welfare and Institutions Code Sections 10553 and 10554

Reference: Welfare and Institutions Code Sections 10553 and 10554 -



Repeal Sections 30900 through 30966, not consecutive as follows:

**TITLE 22 SOCIAL SERVICES—HEALTH SERVICES**  
(Register 22, No. 6—2-6-82) (p. 522.1)

**SUBCHAPTER 4. ADOPTION OF INDIAN CHILDREN SUBJECT TO PROVISIONS OF THE FEDERAL INDIAN CHILD WELFARE ACT OF 1978**

Article 1. Definitions

Section  
30900. Definitions

Article 2. Certification of Indian Blood; Tribal Eligibility;  
Tribal Enrollment

Section  
30905. Certification Procedures of Agency or District Office

Article 3. Natural Parents and Children

Section  
30910. Required Study—Natural Parents  
30912. Informing Parents of Act's Provisions  
30914. Information Transmitted to Adoptee

Article 4. Relinquishment

Section  
30919. Relinquishment—General Requirements  
30921. Taking Relinquishment  
30923. Filing Relinquishment  
30925. Rescinding Relinquishment

Article 5. Consent—Independent Adoption

Section  
30930. Consent—General Requirements  
30932. Taking Consent  
30934. Withdrawing Consent

Article 6. Termination of Parental Rights

Section  
30940. Termination of Parental Rights—General Requirements  
30942. Voluntary Termination of Parental Rights  
30944. Involuntary Termination of Parental Rights

Article 7. Work with Applicants for Indian Children

Section  
30950. Work with Applicants—General Requirements  
30952. Information Transmitted to Applicants

Article 8. Petitioners for the Adoption of Indian Child—  
Independent Adoptions

Section  
30957. Information Transmitted to Independent Petitioners

Article 9. Placement and Supervision

Section  
30962. Placement and Supervision—General Requirements  
30964. Selection of Adoptive Parents for an Indian Child  
30966. Placement Agreement Between the Agency and the Adoptive  
Parent(s)

Authority: Welfare and Institutions Code Sections 10553 and 10554

Reference: Welfare and Institutions Code Sections 10553 and 10554

SOCIAL SERVICES—HEALTH SERVICES

TITLE 22

(p. 522.2)

(Register 82, No. 6—2-6-82)

OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION

OF

APPROVAL

FILED  
In the office of the Secretary of State  
of the State of California

SEP 20 1990

At 12:00 o'clock P.M.  
MARCH LONG EU, Secretary of State  
By *[Signature]*  
Deputy Secretary of State

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the City of Sacramento, State of California.

Submitting Agency: Social Services  
-----

OAL File No: 90-0821-01  
-----

*[Signature]*  
JOHN SMITH  
CHIEF COUNSEL

09/20/90  
-----

EMERGENCY  
NOTICE PUBLICATION/REGULATIONS SUBMISSION(See instructions on  
reverse)

For use by Secretary of State only

STD. 400 (REV. 7-90)

|                     |                                   |                          |                                 |                                   |
|---------------------|-----------------------------------|--------------------------|---------------------------------|-----------------------------------|
| OAL FILE<br>NUMBERS | NOTICE FILE NUMBER<br>Z90-0904-01 | REGULATORY ACTION NUMBER | EMERGENCY NUMBER<br>90-0914-01E | PREVIOUS REGULATORY ACTION NUMBER |
|---------------------|-----------------------------------|--------------------------|---------------------------------|-----------------------------------|

For use by Office of Administrative Law (OAL) only

|   |  |
|---|--|
| <p style="text-align: center;">NOTICE</p> | <p style="text-align: center;">REGULATIONS</p> |
|---|--|

AGENCY  
Department of Social Services

AGENCY FILE NUMBER (If any)  
RDB #0790-30

**FILED**  
in the office of the Secretary of State  
of the State of California

SEP 24 1990

At 4:49 o'clock P.M.  
MARCH FONG EU, Secretary of State  
By Michele L. Williams  
Deputy Secretary of State

## A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

|   |  |                          |                        |                               |
|---|--|--------------------------|------------------------|-------------------------------|
| 1. SUBJECT OF NOTICE  |  | TITLE(S)                 | FIRST SECTION AFFECTED | 2. REQUESTED PUBLICATION DATE |
| 3. NOTICE TYPE<br><input type="checkbox"/> Notice re Proposed<br>Regulatory Action <input type="checkbox"/> Other |  | 4. AGENCY CONTACT PERSON |                        | TELEPHONE NUMBER              |
| OAL USE<br>ONLY   | ACTION ON PROPOSED NOTICE<br><input type="checkbox"/> Approved as<br>Submitted <input type="checkbox"/> Approved as<br>Modified <input type="checkbox"/> Disapproved/<br>Withdrawn |                          | NOTICE REGISTER NUMBER | PUBLICATION DATE              |

## B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

## 1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

|                      |        |  |
|----------------------|--------|--|
| SECTIONS<br>AFFECTED | ADOPT  | Chapter 12-300, Sections 12-301, 302 and 303 |
|                      | AMEND  |  |
|                      | REPEAL |  |
| TITLE(S)<br>MPP      |        |  |

## 2. TYPE OF FILING

☐ Regular Rulemaking (Gov. Code, § 11346) ☐ Resubmittal ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100) ☒ Emergency (Gov. Code, § 11346.1(b))

☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

☐ Print Only ☐ Other (specify) \_\_\_\_\_

## 3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

N/A

## 4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

☐ Effective 30th day after filing with Secretary of State ☐ Effective on filing with Secretary of State ☒ Effective other (Specify) October 1, 1990

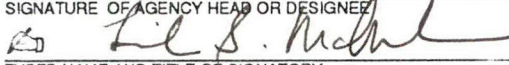
## 5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☒ Department of Finance (Form STD. 399) ☐ Fair Political Practices Commission ☐ State Fire Marshal

☐ Other (Specify) \_\_\_\_\_

|   |                              |
|---|------------------------------|
| 6. CONTACT PERSON<br>Rosalie Clark, Chief, Regulations Development Bureau | TELEPHONE NUMBER<br>445-0313 |
|---|------------------------------|

7. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

|  |                 |
|--|-----------------|
| SIGNATURE OF AGENCY HEAD OR DESIGNEE<br> | DATE<br>8-29-90 |
| TYPED NAME AND TITLE OF SIGNATORY<br>Linda S. McMahon, Director  |                 |

## NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 7-90) ( REVERSE)

INSTRUCTIONS FOR PUBLICATION OF NOTICE  
AND SUBMISSION OF REGULATIONS

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

**ALL FILINGS**

Enter the agency name and agency file number, if any.

**NOTICES**

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

**REGULATIONS**

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

**RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS**

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

**EMERGENCY REGULATIONS**

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

**NOTICE FOLLOWING EMERGENCY ACTION**

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

**CERTIFICATE OF COMPLIANCE**

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

**EMERGENCY REGULATIONS - READoption**

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

Adopt MPP Chapter 12-300 and Sections 12-301 and 12-301.1 through 12-301.3 to read:

12-300 CASE CLOSURE

12-300

12-301 GENERAL

12-301

.1 The district attorney shall establish and use a system for closing Title IV-D cases in accordance with this chapter.

.11 The district attorney shall be permitted to continue to work a case that otherwise qualifies for closure under Section 12-302, if the district attorney believes there is potential for success.

.2 Definitions of terms used in these regulations, which are common to the Child Support Enforcement Program, are found in MPP Sections 11-701, 12-101.3, and 12-601.

.3 Definitions of terms specific to these regulations are:

a. and b. (Reserved)

c.(1) Case closure -- means that Title IV-D services will no longer be provided. However, closure does not affect the support order, if the order is still current, or arrearages have accrued under the order. Although the district attorney closes a case, a support order that is current remains in effect and arrearages continue to accrue for the life of the order.

d. through z. (Reserved)

Authority Cited: Sections 10554, 11475 and 11479.5, Welfare and Institutions Code.

Reference: Section 11479.5, Welfare and Institutions Code; 45 CFR Section 303.11(a); Federal Register, Vol. 54, No. 149, August 4, 1989, page 32303, comments a.1 and a.3.

Adopt MPP Sections 12-302 and 12-302.1 through 302.5 to read:

12-302 CASE CLOSURE CRITERIA

12-302

.1 Title IV-D cases qualify for closure only if they meet at least one of the following criteria:

- (a) There is no longer a current support order and arrearages are under \$500; or, arrearages are unenforceable under state law. Situations to which these criteria apply include, but are not limited to, the following:
  - (1) Reconciliation of the family or the death of a child constitutes grounds for terminating the current support order.
  - (2) Medical support orders and arrearages which accrue under such orders. Medical support arrearages would be part of the arrearages accruing under the support order if a specific dollar amount for medical support is designated in the order by a court or administrative authority.
- (b) The absent parent or putative father is deceased and both of the following apply:
  - (1) No further action can be taken, including a levy against the estate.
  - (2) The district attorney has documented the attempts to identify assets which could be levied and the attempts were unsuccessful.
- (c) Paternity cannot be established because of one of the following:
  - (1) A genetic test or court or administrative process has excluded the putative father and no other putative father can be identified.
  - (2) The district attorney determines that the child's best interest will not be served by establishing paternity because incest or rape was involved, or legal proceedings for adoption are pending.
- (d) The absent parent's location is unknown and the district attorney has made quarterly attempts for three years, using multiple sources, to locate the absent parent, all of which have been unsuccessful.

- (e) The absent parent cannot pay support for the duration of the child's minority for any of the three reasons stated below and the district attorney determines that no income or assets are available to the absent parent which could be levied or attached for support:
- (1) The absent parent is institutionalized in a psychiatric facility.
  - (2) The absent parent is incarcerated with no chance of parole.
  - (3) The absent parent has a medically verified total and permanent disability with no evidence of support potential.
- (f) The absent parent lives in a foreign country and all of the following apply:
- (1) The absent parent is a citizen of a foreign country.
  - (2) The absent parent does not work for the United States government or a company which has its headquarters or offices in the United States.
  - (3) The absent parent has no reachable domestic income or assets.
  - (4) The state is unable to establish reciprocity with the country.
- (g) The district attorney has provided location-only services as requested by the custodial parent, legal guardian, attorney, or agent of a child who is not receiving AFDC, whether or not such services were successful.
- (h) The non-AFDC custodial parent requests closure of a case and any arrearages assigned to the state are under \$500.
- (i) There has been a finding of good cause and the state or local welfare (Title IV-A) or foster care (Title IV-E) agency has determined that support enforcement may not proceed without risk or harm to the child or caretaker relative. (See MPP Section 43-107.4 for good cause criteria.)



(j) The district attorney is unable to contact the non-AFDC custodial parent over a 30-calendar-day period despite attempts to contact the parent both by phone and letter, including at least one certified, return receipt, letter.

(k) The non-AFDC custodial parent is uncooperative and both of the following apply:

(1) The district attorney documents the circumstances of noncooperation in the case file.

(2) An action by the custodial parent is essential for the next step in providing Title IV-D services.

(l) The case involves only the establishment of an order for the reimbursement of aid and all of the following apply:

(1) Aid has terminated.

(2) The absent parent is located.

(3) The absent parent refuses to stipulate to a reimbursement order.

(4) Court ordered reimbursement cannot reasonably be expected to exceed \$1,000.

(m) The custodial parent has moved to another county or state and both of the following apply:

(1) The custodial parent applied for services in the other county or state.

(2) The district attorney documents in the case file that contact was made with the other county or state to confirm that the custodial parent has applied for services in the other county or state, or, in the case of an intercounty transfer, to confirm that the case has been transferred.

.2 The district attorney shall notify the custodial parent of the Title IV-D agency's intent to close the case.

.21 Notice of case closure need not be provided for cases closed under Sections 12-302.1(g), .1(h), or .1(i).

.3 Notice of case closure shall be sent in writing 60 calendar days prior to closing the case.

(a) The case shall be kept open if the custodial parent responds to the closure notice with information that could lead to the establishment of paternity or a support order or enforcement of an order.

(b) The case shall remain open if contact is re-established with the custodial parent in the instance of Section 12-302.1(j).

.4 The case shall be considered for reopening at a later date if the custodial parent requests that the case be reopened and can provide information that could lead to the establishment of paternity or a support order or enforcement of an order.

Authority Cited: Sections 10554, 11475 and 11479.5, Welfare and Institutions Code.

Reference: 45 CFR Sections 302.35(c)(3), 303.3(b)(5), 303.11(b)(1) through (b)(12), and (c); Sections 11350 and 11479.5, Welfare and Institutions Code; Federal Register, Vol. 54, No. 149, dated August 4, 1989, page 32304, comments b.3, b.4 and c.2 and page 32306, comment k; Federal Register, Vol. 54, No. 98, dated May 23, 1989, page 22328, first column, second paragraph; Sections 4700(c) and 7006(a)(1), Civil Code; and Office of Child Support Enforcement letter dated November 3, 1989.

Adopt MPP Sections 12-303 and 12-303.1 through 12-303.112 to read:

12-303 RECORD RETENTION

12-303

.1 Closed Title IV-D case records shall be retained for a minimum of three years from the date the State Department of Social Services submits the last expenditure report for the last quarter of the federal fiscal year to the Department of Health and Human Services.

.11 Records and supporting documentation shall be retained longer when:

.111 They are the subject of an open federal and state audit.

.112 They are the subject of a pending civil litigation or when a court orders that such records be retained for an extended period.

Authority Cited: Sections 10554, 11475 and 11479.5, Welfare and Institutions Code.

Reference: 45 CFR Section 303.11(d); 45 CFR Part 74, Subpart D, Sections 74.20, .21(a) and (b) and .22(a); and Section 11479.5, Welfare and Institutions Code.

OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION

OF

APPROVAL

FILED  
In the office of the Secretary of State  
of the State of California

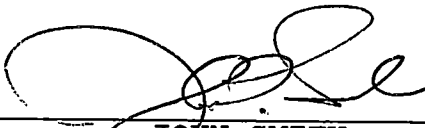
SEP 24 1990

4:49 o'clock P.M.  
MICHAEL FONG EU, Secretary of State  
By Michael F. Williams  
Deputy Secretary of State

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the City of Sacramento, State of California.

Submitting Agency: Social Services

OAL File No: 90-0914-01

  
JOHN SMITH  
CHIEF COUNSEL

09/24/90

## NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 7-90)

|                  |                    |                          |                                 |                                   |
|------------------|--------------------|--------------------------|---------------------------------|-----------------------------------|
| OAL FILE NUMBERS | NOTICE FILE NUMBER | REGULATORY ACTION NUMBER | EMERGENCY NUMBER<br>90-0920-048 | PREVIOUS REGULATORY ACTION NUMBER |
|------------------|--------------------|--------------------------|---------------------------------|-----------------------------------|

For use by Office of Administrative Law (OAL) only

1990 SEP 20 PM 3:14

OFFICE OF  
ADMINISTRATIVE LAWENDORSED  
APPROVED FOR FILING  
SEP 27 1990

Office of Administrative Law

In the office of the Secretary of State  
of the State of California

SEP 27 1990

At 3:32 P.M.  
MARCH FINE ELLIOTT, Secretary of State  
Michael L. Williams  
Deputy Secretary of State

NOTICE

REGULATIONS

AGENCY

State Department of Social Services

AGENCY FILE NUMBER (if any)

#0590-19

## A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

|   |  |                          |                        |                               |  |
|---|--|--------------------------|------------------------|-------------------------------|--|
| 1. SUBJECT OF NOTICE  |  | TITLE(S)                 | FIRST SECTION AFFECTED | 2. REQUESTED PUBLICATION DATE |  |
| 3. NOTICE TYPE<br><input type="checkbox"/> Notice re Proposed<br>Regulatory Action <input type="checkbox"/> Other |  | 4. AGENCY CONTACT PERSON |                        | TELEPHONE NUMBER              |  |
| OAL USE ONLY  | ACTION ON PROPOSED NOTICE<br><input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn |                          | NOTICE REGISTER NUMBER | PUBLICATION DATE              |  |

## B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

## 1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

|                   |        |                                    |
|-------------------|--------|------------------------------------|
| SECTIONS AFFECTED | ADOPT  | 42-750.7                           |
|                   | AMEND  | 22-022.5, 42-786.41, and 42-787.13 |
|                   | REPEAL |                                    |
| TITLE(S)          |        | MPP                                |

## 2. TYPE OF FILING

☐ Regular Rulemaking (Gov. Code, § 11346)
 ☐ Resubmittal
 ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100)
 ☒ Emergency (Gov. Code, § 11346.1(b))

☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

☐ Print Only
 ☐ Other (specify)

## 3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

Not Applicable

## 4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

☐ Effective 30th day after filing with Secretary of State
 ☒ Effective on filing with Secretary of State
 ☐ Effective other (Specify) (10-01-90)

## 5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☐ Department of Finance (Form STD. 399)
 ☐ Fair Political Practices Commission
 ☐ State Fire Marshal

☐ Other (Specify)

## 6. CONTACT PERSON

Rosalie Clark, Chief, Regulations Development Bureau

TELEPHONE NUMBER

(916) 445-0313

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

Linda S. McMahon

DATE

9-14-90

TYPED NAME AND TITLE OF SIGNATORY

Linda S. McMahon, Director

## NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 7-90) ( REVERSE)

INSTRUCTIONS FOR PUBLICATION OF NOTICE  
AND SUBMISSION OF REGULATIONS

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

**ALL FILINGS**

Enter the agency name and agency file number, if any.

**NOTICES**

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

**REGULATIONS**

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

**RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS**

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

**EMERGENCY REGULATIONS**

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

**NOTICE FOLLOWING EMERGENCY ACTION**

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

**CERTIFICATE OF COMPLIANCE**

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

**EMERGENCY REGULATIONS - READoption**

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

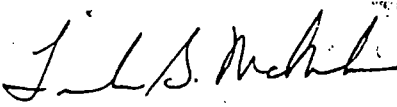
DELEGATED AUTHORITY ORDER

I hereby authorize and designate the following individuals as the agency contact persons who have authority, during the Office of Administrative Law review period, to make decisions and answer questions regarding regulations adopted by the Department of Social Services.

Rosalie P. Clark, Chief  
Regulations Development Bureau

James Rhoads, Assistant Chief  
Regulations Development Bureau

This designation shall be effective on 8-26-88, 1988 and shall remain in effect until superseded or cancelled.

  
Linda S. McMahon  
Director

8-26-88  
Date





Adopt Section 42-750.7 to read:

42-750 SUPPORTIVE SERVICES (Continued)

42-750

.7 When a participant requests a hearing within the period of timely notification (see Section 22-022.5) to appeal a suspension, reduction or termination of GAIN supportive services or a change in the method of providing such services, the participant shall not be entitled to a continuation of GAIN supportive services in the same amount or form pending the hearing decision. The participant shall be entitled to supportive services only at the level and in the form authorized by the county action under appeal.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 45 CFR 255.2(h)(2).

Amend Section 42-786.41 to read:

42-786 GAIN FINANCIAL SANCTIONS (Continued)

42-786

.4 The discontinuance from aid shall become effective at the end of the month following the CWD's timely and adequate notification (see Section 22-022.1), except as specified in Sections 42-786.41 and 42-787.61 below:

.41 If the recipient appeals the sanction through the state hearing process within the period of timely notification, no sanction shall be imposed until the hearing decision is reached. However, pending the hearing decision, GAIN supportive services shall be available to the recipient only at the level and in the form authorized by the county action under appeal. (see Section 42-750.7). (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 45 CFR 255.2(h)(2).

Amend Section 42-787.13 to read:

42-787 GAIN STATE HEARING AND FORMAL GRIEVANCE  
(Continued)

42-787

.1 State Hearing (Continued)

- .13 With the exception of GAIN supportive services (see Section 42-750.7), Aid will continue if the individual appeals through the state hearing process within the period of timely notification (see Section 42-786.41).

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 45 CFR 255.2(h)(2).

OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION

OF

APPROVAL

In the Office of the Secretary of State

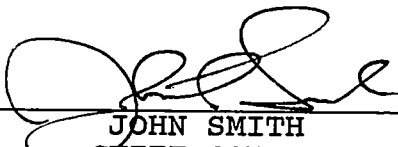
SEP 27 1990

332  
MARCH 1990  
By *Michael G. Williams*  
Deputy Secretary of State

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the City of Sacramento, State of California.

Submitting Agency: Social Services

OAL File No: 90-0920-04

  
JOHN SMITH  
CHIEF COUNSEL

09/27/90